[COMMITTEE PRINT]

DIGEST OF STATEMENTS ON PROPOSALS FOR PRIVATE PENSION PLAN REFORM:

PART I

SUBMITTED TO THE

COMMITTEE ON WAYS AND MEANS

PREPARED FOR THE USE OF THE

COMMITTEE ON WAYS AND MEANS

BY

THE STAFF

OF THE

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

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DIGEST OF STATEMENTS ON PRIVATE PENSION REFORM: PART I

In press release No. 8, September 20, 1973, the Committee on Ways and Means invited interested organizations and individuals to submit written statements on the Senate-passed pension bill which was added to a House bill, H.R. 4200.

Summarized below are the written statements submitted to the Committee on Ways and Means through October 1, 1973, on the subject of private pension plan reform.

A. General

Honorable Chalmers P. Wylie, Member of Congress, Ohio.—Believes that pension reform is vitally needed and that some comprehensive legislation should be passed. Objects to the Senate's procedure in attaching its pension legislation as an amendment to a minor revenue bill. Maintains that the spirit and constitutional philosophy of the taxing process has not been followed in this case and the House of Representatives should not concur in this usurpation of its constitutional prerogatives, particularly since under the rules of procedure a conference report can be debated for only 20 minutes per side. Urges the House to pass its own pension reform legislation.

Honorable Paul Findley, Member of Congress, Illinois.—Cites statistics to show that last year 19,400 people lost their pensions for lack of adequate protection, and that many others still have little or no coverage. Points out several other failings of the current private pension system in this country. Urges consideration of H.R. 9232 which will revise the Welfare and Pension Plans Disclosure Act, and strengthen and improve the private retirement system by establishing minimum standards for participation in vesting of benefits under pension and profit-sharing retirement plans.

Honorable J. Edward Roush, Member of Congress, Indiana.—States that as a cosponsor of pension reform legislation in this Congress he generally approves of the compromise version passed by the Senate because it includes the essentials of any complete legislation including vested rights, voluntary portability, minimum funding, and an insurance program.

Honorable John D. Dingell, Member of Congress, Michigan.—Urges swift consideration of comprehensive pension reform including his bill, H.R. 34.

Honorable R. Waldie, Member of Congress, California.—Expresses support for the Senate bill as well as his own bill, H.R. 9674, which offer comprehensive and total programs to eliminate present abuses and inadequacies in private pension plans.

Honorable Tom Railsback, Member of Congress, Illinois.—Agrees with the key provisions of the Senate-approved bill, which are quite similar to many provisions of the pension legislation he introduced earlier this year. Agrees with the funding, vesting, reinsurance and fiduciary standards provisions of the Senate bill.

Honorable Harold T. Johnson, Member of Congress, California.—Maintains that Federal regulation of the private pension plans will require substantial additional expense and additional paper work. Feels that small businesses should be permitted to administer their own programs without Federal regulation.

Honorable Bill Nichols, Member of Congress, Alabama.—Supports H.R. 4200 as a timely piece of legislation that is badly needed. Believes the bill needs minimum financing standards and should establish a reasonable government insurance program to protect employees against plans which fail them.

Honorable Richard W. Mallary, Member of Congress, Vermont.—Feels that the proposed pension bill is a landmark piece of legislation that is long overdue. Indicates that the least Congress can do is to insure employees that their investments for their retirement income are protected from unregulated abuse or careless oversight.

The American Bankers Association.—Supports the enactment of comprehensive pension legislation. Believes, however, that H.R. 4200 just passed by the Senate would adversely affect the development of private pensions and that additional time should be taken to carefully consider the 300-page bill.

United States Chamber of Commerce, Hilton Davis.—Considers H.R. 2 and H.R. 10489 superior to H.R. 4200. Opposes placing new limits on tax deductions for proprietary employees. Opposes prohibiting nonqualifying and pay-as-you-go plans. Feels that the termination insurance plan is unworkable and believes that the voluntary portability fund is a forerunner of compulsory portability and should not be adopted.

Supports Treasury jurisdiction as prescribed in H.R. 10489; objects to Labor Department Administration as in H.R. 2.

States that this issue deserves public hearings which would help assure drafting of sound and reasonable legislation; intends to submit more detailed comments later.

Association of American Railroads, Gregory S. Prince, Executive Vice President.—Calls for further opportunity for private industry to consider the effect of the provisions of H.R. 4200 before it is hastily acted upon. Asserts that many qualified and nonqualified plans and funded and unfunded plans of the railroad industry will be seriously jeopardized by certain provisions of the bill.

Mobil Oil Corp.—Believes that changes in the law applicable to private pension plans should be enacted only after careful consideration of the impact such changes will have on the future growth and development of private plans. Urges the Committee on Ways and Means to adopt a position as reported by the Committee on Education and Labor, H.R. 2, except for reinsurance. Favors specifically the provisions on funding, vesting, and fiduciary responsibility in H.R. 2. Opposes H.R. 4200, as amended by the Senate, particularly the following provisions:

(1) Additional limitations on contributions for benefits under qualified benefit plans;

(2) Portability;
(3) Restriction on nonqualified plans; and
(4) Reinsurance.

Greyhound Corporation, Phoenix, Arizona, R. E. Gocke, Vice President.—Objects generally to H.R. 4200 in its entirety as costly and unnecessary to the improvement of the application and administration of properly funded employee pension plans which presently meet all requirements of existing Internal Revenue Service and Labor Department regulations. Believes that the proposed bill with its sweeping applications would penalize organizations who are maintaining liberal well-funded and properly administered plans, whereas the real need is to bring into line those who are not. Voices special objections to provisions creating overlapping of functions and responsibilities between Government Departments, the application of severe vesting and portability requirements to industries which do not have a high turnover ratio, and the unnecessary additional costs for insurance to well-funded and vested plans.

PFP Corp., Miami, Fla., Homer W. Forster, President.—Deplores the unfair discrimination against proprietary employees in H.R. 4200. Points out that proprietary employees are discriminated against in: contribution limitations, forward averaging provisions available for lump-sum distributions, integration rules for Social Security, limitations on benefits payable, limitations on employee after-tax contributions to employers pension and profit sharing plans, portability of vested benefits, and the exclusion for beneficiaries for lump-sum distributions paid by reason of death of an employee.

Recommends the following pension reforms:

(1) 100-percent vesting after 1 full year of participation;
(2) Complete portability of total contributions, not just vested portions;
(3) Elimination of Social Security integration guidelines;
(4) The use of a 15-year forward averaging for all lump-sum distributions; and
(5) A maximum $100,000 salary upon which to base contributions applied to all individuals.

Political Action Committee for Engineers and Scientists, Harold J. Ammond, National Chairman.—Urges favorable and speedy action in support of H.R. 4200.

R. Waters, Executive Vice President, Readers' Digest Association, Inc., Pleasantville, New York.—Endorses the provisions of H.R. 10489. Expresses general opposition to the provisions of H.R. 4200 because of its (1) ceiling on pension benefits, (2) portability provisions, and (3) the reinsurance provision.

Ian MacGregor, Chairman, American Metal Climax, Inc., New York, New York.—Protests the proposed time schedule for consideration of private pension bill. Believes that October 1 deadline is completely inadequate for considered comment on this complex legislation, particularly since no copies of the bill were available until about October 1. Suggests that an additional three- to four-week period is needed for receipt of the bill plus public hearings. Warns that the matter is too complex and the welfare of citizens involved is too important for passage of hastily-drawn legislation.

Pacific Coast Pensioners Associations, Albert R. Bertani, Secretary-Treasurer.—Supports the expeditious enactment of H.R. 4200. Expresses the opinion that the traditional notion that a pension is a gratuitous reward for long and loyal service has gradually been replaced by the belief that it is, or should be, a guaranteed right once an employee has completed a reasonable period of employment.

New England Life Insurance Company, Boston, Massachusetts, W. James McDonald, Vice-President and Counsel.—Requests permission to submit a supplemental statement in the near future regarding H.R. 4200. Stresses that the bill is not yet available to many people and is extraordinary in size and complexity.

Vance, Sanders and Company, Inc., Boston, Mass., Lloyd Adams, Vice President.—Cautions that H.R. 4200 as proposed is far from technically perfect, needs additional work, is a result of many necessary compromises and is, therefore, not philosophically consistent in its provisions or fair in many of its affects. Complains that the time provided for comments on this rapidly changing legislation has been grossly inadequate. Urges the Committee not to rush through this bill before those affected have a reasonable opportunity to let the Committee know how the proposed legislation would affect them.

Kennecott Copper Corporation, New York, New York, Gilbert E. Dwyer, Vice President.—Contends that H.R. 4200 will seriously damage private pension systems and discourage introduction of new private pension plans. Maintains that the bill stands as a prime example of poor draftsmanship inspired by undue haste. Expresses disbelief that any serious consideration should be given to approval of the bill without additional study and substantial revision.

Melville Shoe Corporation, Harrison, New York, Francis C. Rooney, Jr., President.—Objects to the limitation on maximum benefits, prohibition against nonqualified plans, termination insurance provisions, provisions on portability, and the limitation of market value for valuation of assets. Asserts that some of these changes if aodpted would reduce the ability to provide a reasonable level of retirement benefits for employees due to prohibitive costs.

Richard V. Grant, Executive Director, Medical Group Management Association, Denver, Colorado.—Takes no position on the bill but strongly urges a delay in action for three or four weeks to allow for public hearings.

Paul H. Jackson, Wyatt Company, Washington, D.C.—Estimates that H.R. 4200 will require drastic changes in pension plans with which he is familiar. Believes the bill will take benefits away from those who now have them and do nothing for those who have lost benefits. Sees H.R. 2 as a far more reasonable starting point.

Paul Inman Associates, Inc., Farmington, Michigan, E. Malcolm York, Controller.—Feels that in consideration of pension reform legislation, Congress has focused excessively on wrongdoing that has been found in a few limited quarters, and ignored the effects of the proposed legislation on the many small businesses and many good plans in existence. Urges Congress to consider the details of the legislation carefully with an eye toward how it affects the small businesses and their employees.

Donald C. Dahlgren, Attorney, Seattle, Washington.—Maintains that the time deadline in which to submit comments was completely unrealistic and prevented many interested parties from complying. Feels that the time pressure and approach to this matter illustrates that Congress has decided on "pension reform" at almost any cost, ignoring the immense importance of this bill. Requests that the committee approach H.R. 4200 with simplification in mind because many of the provisions of H.R. 4200 will only succeed in making an already complex area even more difficult to understand and administer.

Points out that the Senate voted to eliminate the distinction between large and small business, although the bill as passed creates and retains the concept of the "proprietary employee". Urges the committee to delete any reference to the concept of a "proprietary employee" in its review of H.R. 4200.

Joint Committee on Pensions, Richard J. Backe, Chairman.—Notes that the following engineering societies join in support of the Joint Committee on Pensions' comments: American Institute of Aeronautics and Astronautics, American Institute of Chemical Engineers, American Institute of Consulting Engineers, American Society of Civil Engineers, American Society of Mechanical Engineers, and Institute of Electrical and Electronics Engineers.

Generally supports H.R. 4200, as passed by Senate. Urges that it be enacted into law this year, and that the House resist any efforts to weaken the vesting, funding, insurance, fiduciary standards, enforcement, and tax liberalization provisions of the bill.

American Academy of Actuaries, Committee on Actuarial Principles and Practices in Connection With Pension Plans.—Requests that the House Ways and Means Committee extend the time limit for comment on this bill because it contains many actuarial complexities, the import of which may not be readily apparent and which may need a much more detailed review.

National Association of Life Underwriters, Lester A. Rosen, President.—Expresses support for the provisions of the Senate-passed version of the pending pension legislation, and urges that the Committee on Ways and Means act expeditiously so that pension reform might become a reality in 1973.

Ernest J. E. Griffes, National Committee on Compensation and Benefits.—Warns against hasty congressional action which might discourage the establishment of further pension plans. Asks Congress to consider the enormous magnitude of the effects of proposed legislation before acting.

International Ladies' Garment Workers' Union, Lewis Rolnick, Retirement Fund Administrator.—Believes that legislation should provide for variances from the funding, vesting, and reinsurance requirements on a case-by-case basis for multiemployer plans. States that ILGWU's multiemployer plan has complete portability within the industry and that individual plant terminations have no impact upon its plan. Concludes that in its case additional protective measures are not required. Estimates that unless variances are granted for cases like its own, present pension costs would double or possibly triple.

National Society of Professional Engineers, Paul H. Robbins, P.E., Executive Director.—Endorses H.R. 4200, and urges enactment this year. Accepts the bill as a reasonable compromise, including the eligibility, vesting, funding, portability, reinsurance, fiduciary standards, and disclosure requirements.

David Moore, Professional Engineer, Salt Lake City, Utah.—Urges passage of a pension reform bill by the House to correct many private pension injustices. Notes that he has 30 years experience as a professional engineer, but as yet has no claim to the pension programs of the companies for which has has worked. Indicates that many professionals have been laid off because of the loss of government contracts which provide overhead funds for pensions. Requests congressional attention to this situation.

The National Association of Food Chains, Clarence G. Adamy, President.—Feels that generally the private pension plans in the food industry have been well managed and funded plans. With such plans, indicates that regulations do not tend to be harmful because the plans are already adhering to most of the proposed legislation. Expresses concern, however, that legislation will be developed, aimed at a few plans that have been mismanaged, that would cause all private plans to suffer.

National Association of Manufacturers, Eugene J. Hardy, Senior Vice President.—Claims that the provisions of H.R. 4200 were conceived in such haste that they are conflicting, more punitive than regulatory, and go beyond protective legislation to establish provisions which could ultimately eliminate the private pension plan system. Enumerates several objectionable provisions, including: limitations on contribution deductions, plan termination insurance, provisions for portability, pension plan regulation applied to profit-sharing plans, calculation of a vested benefit in a manner which would give greater proportionate benefits to a terminating employee than one who continues his employment, and conflicting and unrealistic funding treatment of gains and losses and asset valuation. Praises H.R. 2 as offering meaningful protection for retirement plan participants without imposing unrealistic reporting and administrative requirements on employers. Urges the adoption of H.R. 2 (without insurance) and H.R. 10489 (making the necessary tax changes).

Hewitt Associates, Actuaries, Chicago, Illinois, Peter E. Friedes, President.—Opposes H.R. 4200 because it is not a well thought-out, carefully designated bill. Enumerates several of the bill's major deficiencies, including: (1) outlawing nonqualified plans; (2) the limitations on amounts of benefits from a pension; (3) the provision for a joint survivor annuity to be automatic without specifying an actuarily reduced basis; (4) the provision requiring the Secretary of the Treasury to approve changes in actuarial methods; (5) the entire portability section; (6) the requirement that plan assets be valued in a specific way; (7) the lack of clarity throughout the bill; and (8) other areas too detailed for a letter to explain.

Believes that the effect of the bill would be to severely impair the private pension system. Suggests the consideration of adopting H.R. 2 or H.R. 10489 as being far superior to H.R. 4200 for both employers and employees.

Jewel Companies, Inc., Chicago, Illinois, C. E. McClellan, Tax Attorney.—Points out that H.R. 4200 as it now exists was changed prior to approval by the Senate by a fairly large number of floor amendments. Believes that with legislation as important as this the committee should not act in haste on this bill. Requests that Congress spend the time and permit the private sector to devote time to analyze it in detail since it will cause sweeping changes in administration of private plans.

Genesco, Inc., Nashville, Tennessee, F. M. Jarman, Chairman.—Protests the scheduled handling of this legislation with so little time between its passage in the Senate and its consideration by the Ways and Means Committee. Asserts that it is difficult to comment on the technicalities of the bill which will seriously affect their pension plan and costs.

California Bankers Association, John W. Kesner, Chairman, Committee on Employee Benefit Trusts.—Strongly opposes any action by the Committee on Ways and Means on H.R. 4200 without reasonable time for public comment on its pension regulation provision. Fears that the objective of encouraging additional plans covering even more employees may be defeated by placing onerous financial and operational requirements upon a sponsor of a pension plan.

Edward G. Remmers, Chairman, North Jersey Section, American Institute of Chemical Engineers.—Urges that there be no more hearing or further delays to prevent the swift passage of this needed piece of legislation.

Southern States Industrial Council.—Believes that Government control over private pension plans generally will have a detrimental effect on such plans. Argues that it will tend to stifle the healthy group of private pension plans by increasing their cost, making them more complex and inflexible, and discouraging innovations and improvements.

Richard N. Bail, Boston, Massachusetts.—States that although the bill's draftsmen have done a highly commendable piece of work in bringing the bill to its present form, the bill would be a poor monument to them if it were enacted without significant changes. Urges that some time be taken to work out technicalities on the bill.

R. B. Cole, Vice President and Treasurer, E. I. du Pont deNemours and Company, Wilmington, Delaware.—Believes that H.R. 4200 will have an adverse impact on this country's private pension system because it denies the flexibility necessary for employers and employees to work out plans that can meet their specific needs. Contends that the severe cost and administrative burdens will restrict growth of private pension plans.

The Taulman Company, Jane Kinzey, Trustee, Profit-Sharing Plans (written statement).—Registers opposition to H.R. 4200 because of: (1) the limitations on contributions to deferred plans for proprietary employees to $7,500; (2) the required fixed funding formulas; (3) plan participation eligibility after serving one year and attaining the age of 30; (4) and allocating to an unvested terminating employee the income, gains, and losses attributable to his own contributions.

Columbia Gas System.—Expresses opposition to H.R. 4200 *in toto*, but expresses general agreement with the proposals contained in H.R. 2, except for the provision for plan termination insurance. Believes that H.R. 4200 will act as a deterrent to new plans and improvements because of the unreasonable and unnecessary burdens imposed on private pension plans. Complains of the short time available for examination of this legislation, making necessary a cursory evaluation of the bill. Takes exception to the overall lack of flexibility that will be built into the American private pension system by H.R. 4200.

22-096—73——2

Ernest N. May, Wilmington, Delaware.—Objects to rushing through pension plan reform legislation. Feels that this prevents those opposing from adequately replying to Congress.

Corporate Fiduciaries Association of Illinois, Chicago, Illinois, J.W. Cooper, Chairman, Employee Trusts Committee.—Suggests that with the amount of time and energy spent to date on pension legislation it would be counter productive to rush a pension bill through the Congress. Expresses special concern that portions of H.R. 4200 have not been subject to public review and will result in irreparable damage to the private pension system.

Robert C. Elkus, Attorney, San Francisco, California.—Complains that the deadline for requiring comments on the Pension Reform Bill is totally inequitable because many people on the West Coast have not yet been able to obtain a copy of the legislation to review it and submit comments to the Committee. Contends that there are a number of technical and equity problems which should be the subject of some opportunity for public hearing, investigation, and/or discussion. Requests an opportunity to be heard on the subject before legislation is adopted.

Converse Murdoch, Attorney, Wilmington, Delaware.—Urges the committee to extend the time for submission of comments about H.R. 4200 in light of the far reaching effects of this bill. Suggests that the committee begin now with the simplification of the Internal Revenue Code by not making the pension provisions so complicated that they will add substantial complications to the Code.

Ehmann, Olsen & Lane, Attorneys, Phoenix, Arizona.—Claims that H.R. 4200 discriminates against stockholder employees of small corporations and removes incentive of small corporations to establish and maintain plans for all employees. Requests the deletion of all provisions in the pension reform legislation which discriminate against the small businessman and his employees.

Seattle First National Bank, Robert S. Beaupre, President.—Warns that the provisions of H.R. 4200 pose a substantial threat to the private pension system burdening employers with costly vesting, excessive funding and plan termination insurance, as well as virtually impossible recordkeeping problems. Urges support of H.R. 2 language for funding, vesting and fiduciary standards.

W. P. Runyan, A. B. Elliott, J. E. Ditzel, and G. G. Priestley, Dayton, Ohio.—Warn that H.R. 4200 would place administrative burdens on small business pension plans that could not be met. Urge that H.R. 4200 be defeated and H.R. 10489 be enacted.

Western Pension Conference, Los Angeles Chapter, Howard F. Neal, President.—Requests a postponement of any action by the Ways and Means Committee on the Senate-passed bill. Calls attention to the fact that the text of the Senate-passed bill was not available on the West Coast in time to review it and make comments on it prior to the October 1 deadline for submission of written statements.

Erle R. Elder, Clariton, Pennsylvania.—Urges open committee meetings on the pension bill.

Clyde D. Richards, North Hollywood, California, and H. C. Artis, Woodland Hills, California.—Criticize the pension reform bills because they only protect those that already have a pension plan and some degree of protection. Recommend the establishment of a nationwide uniform pension program to which employees and employers will jointly contribute funds to be deposited in a national depository and which will entitle participants to retire in 20 years at one-half pay.

Arthur J. Riggs, Attorney, Dallas, Texas.—Agrees with the funding and fiduciary controls of H.R. 4200, but argues that the rest of the proposals having to do with mandatory increased coverage, vesting, portability, etc., represent a complete change in concept, rather than pension reform. Contends that Congress is saying, in effect, that you either adopt no pension plan, or you adopt a pension plan which supplements social security for substantially all employees. Suggests that any legislation that is passed should at least have a grandfather clause protecting plans in existence at the time the legislation is passed. Argues that the pension tax proposals will eliminate all pension plans which are designed to reward and benefit employees who have remained with their employer for many years.

B. M. G., Inc., Los Angeles, California, W. G. Gebbie, Vice President.—Asserts that scheduling of Ways and Means Committee consideration of the Pension Reform Bill does not give adequate time for any interested party to investigate the contents of the bill and in turn reflect their feelings to their voting representatives. Notes that it is particularly hard for people on the West Coast, as the mail was slow in getting the information to them. Recommends highly that vote be delayed until such time as the proposed bill can be publicized so that all concerned people can study and make proper recommendations.

Honeywell, Inc., Russell W. Laxson, Vice President, Public Affairs.—Predicts the ultimate dilution of benefits available to Honeywell employees by the requirements of H.R. 4200 which (1) diverts funds to provide vested benefits for a large number of relatively short-term or temporary employees, (2) diverts funds to a government pension plan guaranty corporation to pay benefits to employees of other companies abandoning their pension plans, and (3) diverts funds to pay an "excise tax" for auditing their pension plans.

Professor William Withers, Economics Dept., Queens College of the City University of New York.—Indicates that the proposed pension bills (Williams-Javits and Bentsen) provide some urgently needed pension reforms of existing plans. However, asserts that such proposals fall far short of solving the main pension problems since there is nothing in the bills that would induce greater coverage or higher benefits.

Contends that greater incentives than tax deductions and protective Federal administration are required to encourage the spread of private pension plans to the other half of employees not now covered. Maintains that tax deduction benefits have not thus far led to substantial increases in private pension plans, especially among small firms.

Expresses concern that the proposed legislation will actually discourage adoption of pension plans because of the added costs for insurance and early funding. Believes that a national pooled fund is needed with strong incentives to establish pension plans through it.

Dorothy B. McMeekan, Riverhead, New York.—Feels that pensions in private industries should be made comparable to the Civil Service pension.

C. R. Morgan, Treasurer, National Gypsum Company.—Favors H.R. 9232 and H.R. 9824 over the Senate version of the bill.

John K. Armstrong, New York, N.Y.—Objects to the haste, with which the Congress has dealt with pension reform legislation. Believes that the interest of the public and industry are being ignored, as there has been no opportunity for thoughtful review and comment on the actual text of the bill.

Paul D. Schauer, Government Relations Specialist, Gates Rubber Company, Denver, Colorado.—Feels that in deliberation of the pension reform bill there has been an oversight that private pension plans were developed as an incentive for employees to continue their employment with one employer for an extended period of time.

National Retail Merchants' Association, James R. Williams, President.—Feels that insufficient time has been provided for comments on the highly complex pension provisions in the Senate bill. Requests that an extended period of time be granted for further comments.

Phillips Petroleum Company, Bartlesville, Oklahoma, W. R. Thomas, Vice President.—Believes that the extremely long and complex provisions of H.R. 4200 have not been adequately studied nor have persons affected been given sufficient time to analyze and comment on their effect. Suggests serious consideration be given to H.R. 2 without its insurance provisions and to the tax provisions of H.R. 10489, which, in contrast, have been thoroughly considered.

Charles T. Kingston, Jr., The National Association of Life and Advanced Life Underwriters.—Objects to any differentiation between proprietary employees and corporate employees. States that the amendments on the Senate floor to H.R. 4200 eliminated many of the discriminatory provisions but that some remain and should be eliminated.

Edwin F. McCuddy, President, United Auto Workers Local No. 819, St. Louis, Missouri.—Urges passage of strong pension legislation such as that recently passed by the Senate. Believes that few pieces of legislation in the past has the potential for affecting human lives as does pension reform and particularly its vesting, funding, and insurance provisions.

Samuel M. Kinney, Jr., Wayne, New Jersey.—Believes that H.R. 4200 includes provisions which will ultimately require standardization of actuarial methods, procedures, and assumptions regardless of varying business situations, thus imposing an undesirable rigidity. Cites portability, reinsurance, and limitations on pension ceilings as primary contributors to this rigidity. Warns that H.R. 4200 could well be the first major step leading to the ultimate demise of our private pension system. Urges Congress to avoid destroying the many good elements of the private pension system which permit the tailoring of pension requirements to individual types of businesses in relation to cost and appropriateness in favor of a massive regimented system. Stresses that additional time is needed for full examination of the provisions of the bill, and that adequate public hearings should be held before enacting this complex legislation.

George Browning III, Attorney, Sarasota, Florida.—Believes that numerous provisions of the Senate Finance Committee version of the bill will increase the difficulties of the small businessman and the individual proprietors who are the last forefront of free enterprise. Objects to the provisions of taxation of lump-sum distributions, the integration rules, the limitation on benefits of defined benefit plans, the portability rules, taxation of death benefits, and the constructive receipt rule.

Thomas Mitchell, Midland Mutual Life Insurance Co., Columbus, Ohio.—Expresses concern that adequate attention has not been given to legislation which would encourage the establishment of plans for small employers. Criticizes the extensive paperwork, complicated projections, and complex provisions involving actuarial formulas, which would provide a nightmare of stifling paper work for the small corner grocery store and therefore discourage establishment of a pension plan.

William L. Reeve, Rolling Meadows, Illinois.—Urges that the deadline for receiving comments on H.R. 4200 be extended for a period of 4 weeks in view of the fact that the bill will be considered without hearings.

Robert L. Barnes, Actuary, Glen Ellyn, Illinois.—Complains of inadequate time in which to review the lengthy, complex pension reform bill. Requests extension of the date for acceptance of written statements to at least October 15th.

Louis H. Diamond, Attorney, Washington, D.C.—Concludes that H.R. 10489 or possibly H.R. 2 is a better alternative than H.R. 4200. States that if H.R. 4200 is kept all references to term "proprietary employees" should be removed

Robert S. Hill, Los Angeles, California.—Believes that the present legislation is being unnecessarily rushed and asks that further hearings be held.

George E. Ray, Dallas, Texas.—Urges that all remaining discriminatory provisions with respect to proprietary employees be deleted from the Senate bill.

Barry M. Kuhl, Omaha, Nebraska.—Requests that the deadline for submitting comments and recommendations be extended so that interested parties will have a sufficient opportunity to investigate the lengthy and complex legislation.

Robert J. Caldwell, Cambridge, Massachusetts.—Feels that most progressive small businessmen will not object to the Senate-passed bill because their plans already meet the requirements and because they agree that small businesses should not be treated differently from large corporations. Urges House passage of identical bill.

Richard I. Bonsal, President, Joshua L. Bailey & Co., Inc., New York, N.Y.—Asserts that the pension legislation is being rushed through with undue haste and without adequate time for deliberation and constructive comments. Protests the lack of hearings and the early cutoff date for the submission of written comments.

William M. Erichson, Cold Spring, New York.—Contends that the legislation is obscure, dangerous and destructive, and that it will discourage the continuation of existing pension plans. States that since many of the potential changes will have to be negotiated between unions and employers, companies will have an excuse to terminate existing plans.

George W. Moore III, Attorney, Bloomfield Hills, Michigan.—Expresses general support for the Senate pension bill as passed by the Senate.

B. Plan Coverage and Participation

Honorable Bertram L. Podell, Member of Congress, New York.—Proposes amendments to the bill to insure that working women are not discriminated against. Recommends that women lose no rights under pension plans due to disruptions in service for child birth and that full vesting be established after five years service to protect women who may have to interrupt their business careers at some point. Also feels that the legislation should cover women who work part time or only a few months out of the year so that they may receive what they have paid into a pension plan when they retire.

Clyde M. Sullivan, Secretary of the Department of Employee Trust Funds, State of Wisconsin.—Advocates an amendment under which any retirement plan established by State or local government will be deemed a "qualified" plan under the Internal Revenue Code. States that presently many District Offices of the Internal Revenue Service do not treat public plans as "qualified plans" until after the public plans have gone to considerable expense in proving their right to qualification. Objects to application of the specified age and service requirements for retirement participation to public plans after December 31, 1980. States that forcing public plans to comply with these standards would lead to an absolute reduction in the liberal coverage provisions now in effect.

Carol Burris, President, Women's Lobby, Inc.; Arvonne Fraser, President, Women's Equity Action League; and Jane McMichael, Executive Director, National Women's Political Caucus.—Urge that a provision be included to prohibit sex discrimination in the granting of benefits, the administration of the act, or in any of the programs of the act. State that Labor Department statistics reveal marked sex discrimination in existing pension plans.

Profit Sharing Council of America, L. L. O'Connor, President.—Objects to the 1-year eligibility, at least with respect to part-time or seasonal employees. Recommends that such employees should have at least a 2-year eligibility requirement.

International Brotherhood of Electrical Workers, Joseph D. Keenan, International Secretary.—Describes the details of the IBEW members pension plan and asserts that if it were subject to the requirements of H.R. 4200, it would be illegal for the IBEW to maintain this plan on its present basis; and at the same time, it would be impossible to change to meet the requirements for vesting and funding in the bill.

States that their plan has no access to funds from employers to cover unfunded past service liabilities, and that the plan depends upon obligations of the younger members to make payments which go to older members who are retired. Points out that their plan is neutral tax-wise since the money is paid in by the members out of their wages that have already been taxed. Urges that H.R. 4200 be amended to make an exception to its provisions for section 501(c) (5) organizations.

The Seafarers International Union, AFL–CIO, Paul Hall, President.—Points out that, due to the unique patterns of this industry, pension plans are geared to days of employment rather than years of employment or actual earnings. Requests amendment to H.R. 4200 to allow the defining of years of service in terms of months or hours.

Paul D. Schauer, Government Relations Specialist, Gates Rubber Company, Denver, Colorado.—Objects to the requirement of participation after 1 year of service or 30 years of age. Believes that the participation requirement should be 5 years of service, regardless of age, because the turnover rate of employees in their first 5 years of service is such that participation within less service time would create an inordinate amount of recordkeeping and administrative costs.

United Steel Workers of America, I. W. Able, President.—Objects to the deferral of the beginning of accrual of pension rights under private plans to age 30 because it results in a reduction of up to 25 percent in potential pension benefits for employees who enter the labor market at an early age. Asserts that the arguments for age 30 as given in the report of the Senate Finance Committee grossly exaggerates the administrative difficulties and unjustifiably belittles the loss of benefits to young workers. States that in the more than 1,000 pension agreements negotiated by the United Steel Workers there is not a single exclusion from pension coverage of a member of the bargaining unit for any reason whatsoever. Claims that the debate on the pension reform bill is the first allegation that they have yet to hear that there have been any administrative problems from including employees under the age of 30. Urges that the minimum required age for participation be reduced to 25.

Recommends that the date as of which the rules for pension plan participation must be conformed to the provision of the act be changed from January 1, 1976, to January 1, 1975. Submits that there are no difficult problems either in relation to administration or benefit costs which would result from a change in this effective date.

Association of American Railroads, Gregory S. Prince, Executive Vice President.—Objects to language in the bill amending section 401(a)(3) of the Code, which would require that in order to maintain qualification of a plan which excludes collective bargaining units, the parties must discuss retirement benefits for union employees in the course of every collective bargaining meeting. Stresses that the collective bargaining negotiations by the National Carriers Conference Committee (representing the railroads) and more than 20 major union organizations have *never* bargained on the subject of retirement benefits of qualified pension plans. Recommends that the bill be modified to omit the requirement for collective bargaining on qualified pension plans, thus permitting the exclusion of employees in a collective bargaining unit and leaving the Internal Revenue Service to continue to review on a case-by-case basis the propriety of coverage and discrimination.

Southern Pacific Company, San Francisco, California, B. F. Biaggini, President.—Warns that the proposal to add section 410(b)(2)(A) to the Code, as provided in section 201 of H.R. 4200, could jeopardize the qualification of retirement plans for which the railroad industry has bargained collectively with union representatives on a national basis. Recommends that this provision be eliminated entirely.

Daniel I. Halperin, University of Pennsylvania Law School.—Objects to the provision allowing the plan not to include certain employees in a bargaining unit for purposes of determining whether a plan discriminates against lower paid employees. Believes that a plan limited to salary oriented employees can reduce the number of lower paid employees who get pension coverage and thus is inherently suspect. Feels that the provision making it illegal to maintain retirement plans which are not qualified is too broad. Asserts that more careful distinctions are required so that, for example, it is clear that fully funded and fully vested annuity contracts provided under section 403(b) are not prohibited. Maintains that no restrictions should be established against providing retirement benefits outside a qualified plan to supplement such benefits.

Herman C. Biegel and John A. Cardon, Attorneys, Washington, D.C.—State that the definition of "years of service" for determining participation is unacceptable in that it gives seasonal employees an advantage over regular employees. Believe that a period of work must aggregate one year before it can be counted.

J. C. Perkins, Vice President, Shell Oil Company.—Believes that profit sharing plans should be excluded from the imposition of the one-year or age 30 participation requirement or that the requirement for profit sharing should be extended to 3 years. Argues that the definition of a year of service should provide that a seasonal employee will be considered to have one year of service whenever his aggregate work months equal one year.

Carol Burris, President, Women's Lobby, Inc.; Arvonne Fraser, President, Women's Equity Action League; and Jane McMichael, Executive Director, National Women's Political Caucus.—Argue that until housewives are allowed to participate independently in Social Security benefits the private pension plan system should allow housewives to be included as self-employed and set aside $7,500 per year for pension purposes.

John A. Haag, Actuary, Houston, Texas.—Points to an inequity which can exist in plan participation as between substantial numbers of persons who work, say, 1,600 or more hours in a particular year and a man who works only 80 hours per month for only 5 months (400 hours). Objects to the plan participation provisions of H.R. 4200 providing credit for a year of service if an employee is employed at least 80 hours a month for at least 5 months. Urges substitution therefore of a credited service formula based on the actual number of hours of covered employment. Argues that such amendment would prevent the dilution of the interests of persons who work on a continual basis by the generous credits allowed to "drifters, and quiters, and part-timers".

Reuben Gutoff, Senior Vice President, General Electric Company.—Believes that nonqualified pension plans should be available to others beyond just officers of a corporation since many key management employees in a large corporation are not officers.

Phil Starbuck, Schiller Park, Illinois.—Advocates an entry age for deferred profit-sharing plans of at least 25 years of age, with a 2-year eligibility, because of the high turnover among very young employees and the substantial administrative burden of handling a plan where turnover is so great in early years.

W. M. Grooms, CPA, Columbia, South Carolina.—Feels that the provision requiring that all employees of a corporation be covered by deferred compensation after one year's term of employment is an unreasonable one in view of the frequent employee turnover within the first two years of employment and the additional administrative cost to the pension or profit-sharing plan.

Objects to the "affiliated group" provision of H.R. 4200 which entitles employees of each corporation which is part of a controlled group to receive the same amount of deferred compensation. Notes that within a group of affiliated corporations some produce profits, and some do not; it would be economically impossible to provide like benefits to all employees in an overall group. Requests, also, that the discriminatory distinction between proprietary employees and employees of a corporation be removed from the bill.

Malcolm E. Ritsch, Jr., Attorney, Richmond, Virginia.—Contends that the mandatory eligibility period of one year is too short from an administrative standpoint, especially in industries with substantial employee turnover.

Robert F. Spindell, Attorney, Chicago, Illinois.—Claims that the pension reform bill's liberalization of eligibility will have an undeniably adverse affect on pension plans because of the heavy acquisition costs in the first year of a plan.

National Society of Professional Engineers, Washington, D.C.—Approves the Senate bill's one year or age thirty participation requirement as a compromise measure acceptable to engineers.

Martin E. Segal Company, New York, N.Y.—Agrees with the present provision that for purposes of qualification the plan may validly exclude employees in the collective bargaining unit if there has been bargaining. Believes that this same treatment should be extended to a bargaining unit which has an agreement to a pension even though other employees, whether organized or not, do not have a comparable pension.

Association of General Merchandise Chains, Inc., Washington, D.C.—Believes the minimum participation requirement should be age 30 and 3 years of service. States that the high turnover and the extensive use of part-time employees in the retail industry means that any lesser requirements would cause excess recordkeeping and reporting.

National Conference on Public Employee Retirement Systems, Al S. Haase, President.—Urges that public employee plans be excluded from coverage under the pension reform bill until it is determined what problems exist and what corrective legislation may be necessary in order to correct the problems of public employee plans.

National Retail Merchants Association, James R. Williams, President.—Believes that one year of service requirement for participation is too short given the high turnover in an industry such as retailing. Asserts that the result would be an unnecessary administrative burden which could be eliminated with an eligibility requirement of 3 years of service and age 30.

Joint Committee on Pensions, Richard J. Backe, Chairman.—Endorses the provision which permits engineering societies to set up their own pension plans.

Believes it only fair that the Federal Government attempt to protect against pension plan forfeitures as a condition of contracting, where the Government is, in effect, paying pension costs under Government contracts.

22-096—73——3

National Association of Food Chains, Clarence G. Adamy, President.—Recommends that the legislation not only cover pension and profit sharing plans, but cover all such plans including union (joint Taft-Hartley trusts), and State and municipal plans.

Professor William Withers, Economics Dept., Queens College of the City University of New York.—Prefers eligibility after one year of service, or age 25 (as provided in S. 4), and with complete credit for pre-participation services (as in S. 1179).

Edward S. Gibala, Urbana, Illinois.—Believes that State and local government pension plans should be regulated as well as private pension plans. Asserts that the State of Illinois pension plan has not met the minimum Internal Revenue Service requirement for funding by employers in any recent year.

Kenneth W. Murray, Manager, Command and Information Systems, General Electric Company, Sunnydale, California.—Believes that nonqualified pension plans should be available for personnel other than officers since in larger companies many managers not holding the title of officer have much greater responsibility than officers of smaller companies.

Mack F. Holme, Brockport, New York.—Objects to the provision that pension plans need not permit employee participaiton for employees under 30 years of age. States that it is grossly unfair to discriminate against younger workers who could thus be 12 years on the job before joining a pension plan, assuming starting at age 18.

C. R. Morgan, Treasurer, National Gypsum Company.—Objects to the provision crediting for one year of service the period of five months of employment during the year. Indicates that this discriminates in favor of part-time or seasonal employees, and that for purposes of plan participation a year of service should be defined as ending on the anniversary date of hiring.

Robert Rappaport, Van Nuys, California.—Urges passage of legislation so that teachers and other employees can change jobs and locations without losing substantial pension rights.

Philip H. Weber, Weber Financial Inc., Fresno California.—Feels that the provision for eligibility after no more than one year of continuous employment works a hardship on many businesses where rapid turnover is experienced. Feels that the current IRS procedures of reviewing each case individually, in view of the stability of the workforce in the industry, has much to recommend it.

Thomas Mitchell, Midland Mutual Life Insurance Co., Columbus, Ohio.—Feels that a better provision for plan participation would be to require participation after two years of service, rather than after age 30 and one year of service. Maintains that the two-year service requirement would be preferable in the interests of administrative costs and because of the fact that someone who stays with an employer for less than two years cannot reasonably be expected to have accrued pension rights.

R. J. Smith, Hammond, Indiana.—Believes that the eligibility provisions requiring service no longer than 1 year is unrealistic in view of the high turnover rate during the first two years of employment.

Robert H. Pickering and Associates.—Urges that the maximum eligibility requirement should be age 25 or 2 years' service, whichever comes later.

Keith Anderson, Arvada, Colorado.—Approves the provision providing for participation after one year of service beyond age 30.

C. Vesting

Honorable Harold T. Johnson, Member of Congress, California.—Stresses that money contributed to a pension plan by an employer is considered as a portion of wages which is set aside for payment in retirement years, and that since these wages are earned, it is only right that they be vested early and returned after retirement.

Honorable John D. Dingell, Member of Congress, Michigan.—Maintains that legislation must include full vesting within 10 years.

Honorable Charles J. Carney, Member of Congress, Ohio.—Indicates that employees should be entitled to a vested, nonforfeitable right to 100 percent of their accrued pension benefit after 10 years of service, rather than after 15 years of service.

Honorable Donald M. Fraser, Member of Congress, Minnesota.—Believes that in this age of labor mobility that 5 years is a reasonable period for 100-percent vesting. Feels that the age limitations of the vesting provisions of H.R. 4200 are patently discriminatory against younger workers and should be eliminated. Advocates credit given for all part-time and part-year work, to help protect women whose job tenure is about 60 percent of that of men and who must often leave the labor force to raise a family.

Honorable Clarence D. Long, Member of Congress, Maryland.—Believes that in order to protect pension rights earned by workers, vesting must begin within one year after employee goes to work for a company. Argues that when a worker accumulates a pension, he is not being given a thing; he has earned a pension right and it is a part of his paycheck, except that he doesn't get his hands on it right away.

Clyde M. Sullivan, Secretary of the Department of Employee Trust Funds, State of Wisconsin.—Opposes the requirement that the specified vesting provisions become applicable to public plans beginning after December 31, 1980. Argues that since Wisconsin already has more liberal provisions than those provided in the bill, public employees could be affected adversely through this provision.

AFL–CIO, Andrew J. Biemiller, Director, Department of Legislation.—Believes that the standard should be 100-percent vesting after 10 years, but that multi-employer plans should be permitted to apply for a variant from this standard. Endorses the 3 alternative vesting standards proposed in Title II of H.R. 2. Reports the result of various studies on the cost of vesting which clearly indicate a wide variation in cost to different plans of a specified vesting provision. Believes that these results dictate some administrative flexibility which would make provision for variances from the minimum standards. Registers dissatisfaction with two separate minimum standards of vesting, but feels that variations are essential in the case of many multiemployer plans.

United Steel Workers of America, I. W. Abel, President.—Understands the vesting standards of H.R. 4200 are minimum, and asks that section 221(b)(1)(A) be amended to state that "the definitions and rules relating to accrued benefits shall not be interpreted as requiring any reduction in any pension or other benefit to which a participant may become entitled under a plan subject to this title."

American Gas Association, George H. Lawrence, Senior Vice President, Public Affairs.—Believes that lowering the vesting requirements to the proposed five years will work as a disincentive to the basic concept of the pension plan and would discourage employee continuity in a job.

National Automobile Dealers Association.—Feels that a fifteen-year 100-percent vesting provision might act to discourage expansion of private pension plans, but that a 20-year 100-percent vesting provision is a successful balance between employee protection and reasonable and acceptable costs to the employer.

Tax Committee of the American Textile Manufacturers Institute.—Believes that a ten-year nongraduated vesting alternative should be generally available and that compulsory vesting should apply only to benefits accrued after the effective date of the legislation.

American Telephone and Telegraph Company.—Indicates that H.R. 4200 does not define the term "normal retirement age", and recommends that a language be adopted to clarify that payment need not begin before age 65. Objects to the one rigid vesting rule of H.R. 4200. Indicates support for the vesting rule contained in H.R. 2, which provides for a choice among three alternate but still liberal vesting rules. Opposes the provisions which permit plans to postpone the eligibility to the later of 30 years of age or 1 year of service, because it penalizes the more liberal plans which grant immediate participation to new employees.

Container Corporation of America, R. C. Bittenbender, Senior Vice President.—Believes that the 5-year commencement date is an extremely short period of employment on which to establish a base for vesting, and that it will be detrimental to longer term employees and create substantial administrative costs.

Kenneth W. Murray, Manager, Command and Information Systems, General Electric Company, Sunnyvale, California.—Supports reasonable vesting standards. Believes that benefits vested should equal basic pensions accrued at termination of employment. Also feels that all employees should be on the same vested schedule without separate arrangements for specially defined professions.

Standard Oil Company (Indiana), Jack M. Tharpe, Vice President-Employee Relations.—Objects to the projection of employee earnings to age 65, as required by section 221 of H.R. 4200, because the projection method will provide a greater benefit than actually earned during empolyment with a company which has a defined benefit plan.

Miles Laboratories, Inc.—Feels that the pension reform legislation should be broadened to permit alternative vesting schedules which are more liberal than the 5- to 15-year graduated vesting provisions of H.R. 4200.

Paul H. Jackson, Wyatt Company, Washington, D.C.—Objects to provision leaving definition of "normal retirement age" for purposes of calculating vested benefits to regulation. Believes a "normal retirement age" should be defined as age 65, as is the case for Social Security unless an earlier age is provided in a specific plan.

Feels that the definition of an employee accrued benefit should be clarified so that benefits are not determined as if a worker had attained normal retirement age at termination without any reduction for the retirement. Argues that unless a clarification is made, accrued benefits could exceed benefits based on actual service by as much as 30 percent.

E. L. Seider, C.L.U., Chicago, Illinois.—Calls attention to the fact that upon termination of service of a vested employee, most plans provide that if he elects to withdraw his contribution prior to the normal retirement age, the vested portion contributed by the employer is forfeited. Requests that Congress correct this "cruel hoax" by either requiring that the employer's portion of the vested benefits be paid at the time the employee's contribution is withdrawn or that it remain until normal retirement age regardless of the employee's withdrawing his own contributions.

C. T. Hellmuth, C.L.U., Washington, D.C.—Maintains that early vesting reduces one of the prime reasons why employers establish retirement plans, i.e., to encourage good people to remain with them. Points out that there are only two alternatives when vesting for terminated employees is increased: either the employer must make a larger contribution or those who stay must take lesser benefits. Warns that tax and other regulations must not be unnecessarily onerous if the objective is to establish as many private pension plans as possible.

P.P.G. Industries, Inc., Washington, D.C., Jack Woolley, Manager, Federal Government Affairs.—Feels that the vesting schedule of H.R. 4200 is too restrictive and would add substantial costs. Indicates that it should be based on age and service, not just service.

National Society of Professional Engineers, Washington, D.C.—Favors a rule of 20-percent vesting for each year of service, thus achieving 100-percent vesting after five years of employment. However, considers the provisions of H.R. 4200 as a reasonable compromise.

Phillips Petroleum Company, Bartlesville, Oklahoma, W. R. Thomas, Vice President.—Maintains that the vesting provisions do not recognize legitimate distinctions between annuity retirement plans and supplemental thrift and savings plans. Notes that the proposed method of computing an employee's accrued benefit for vesting purposes would override benefit provisions of the retirement plan itself.

Boise Cascade Corporation.—Supports reasonable mandatory vesting, and feels that the formula combining age and service would best serve the needs of the participants in the plan.

W. A. Greene, Vice President, Barbara Greene Company, Aurora, Illinois.—Approves of 100-percent vesting after 15 years of service, but believes that the commencement of vesting earlier than 10 years of experience creates additional recordkeeping and administrative effort that produce needless and excessive costs.

Association of General Merchandise Chains, Inc., Washington, D.C.—States that to avoid a huge number of vested accounts which because of short service provide very small monthly pensions retail establishments need a vesting formula based on a fairly substantial number of years of service. Suggests either a rule of 30-percent vesting after 8 years graduating to a 100-percent vesting after 15 years, or a rule of no vesting until 10 years but 100-percent vesting at that time.

Carol Burris, President, Women's Lobby, Inc.; Arvonne Fraser, President, Women's Equity Action League; and Jane McMichael, Executive Director, National Women's Polictical Caucus.—Support immediate vesting so that young women who must enter the work force but leave to rear children and then return will not lose the security of benefits for their employment. Feel that it is crucial for women that maternity leave and layoffs not be considered a break in employment service for purposes of determining vested benefits.

Columbia Gas System.—Criticizes the vesting formula of H.R. 4200 because it does not recognize future increases in social security tax base and benefits which are integrated into the benefit formula of many existing plans, and because it fails to take into account many variations and trade-offs that are considered in developing a total pension package. Suggests, as an alternative, that the Treasury Department continue to approve the vesting provisions in plans if they are reasonable, nondiscriminatory, and nonpreferential and meet some broad statutory vesting standards.

Harris Trust and Savings Bank, Chicago, Illinois, C. J. Hambleton, President.—Recommends a more flexible approach to vesting options in order to allow employers to individualize retirement plans to meet specific requirements.

Daniel I. Halperin, University of Pennsylvania Law School.—Accepts the vesting schedule of H.R. 4200 as generally satisfactory. States that the provision making it illegal to fire an employee in order to avoid vesting is of crucial importance. Objects to the bill's provision permitting forfeiture of employer contributions upon withdrawal of employee contributions.

Ian K. Lamberton, Financial Executives Institute, New York, N.Y.—Finds the minimum vesting standards of H.R. 4200 to be practical and reasonable but has difficulty in determining how one could comply with the standards for multiemployer plans.

J. C. Perkins, Vice President, Shell Oil Company.—Believes that vesting requirements should be approached cautiously to avoid increased costs. States that years of service prior to the effective date of the act should not be considered in vesting requirements.

Trustees of the Western Conference of Teamsters Pension Trust, T. N. McNamara, Counsel.—Contends that, because most multiemployer employee plans have no waiting period for eligibility, it is reasonable to permit such plans to require a full year's active participation (2,000 covered hours) before vesting can begin. Maintains that in multiemployer plans there is a need for a "break in coverage" provision to avoid increased administrative costs, and greater uncertainty as to the plan's liabilities.

Robert M. Leventhal, Chairman, Legislative Committee, Council of Engineers and Scientists Organizations.—Believes that the vesting requirements of the pension reform bill are inadequate as applicable to highly mobile professional engineers. Maintains that in order to provide meaningful vesting standards, it is necessary to make a detailed study of the employers who are involved in employment that is characterized by high mobility or who employ persons who make frequent job changes as an inherent condition in the conduct of their professions. Recommends that the official bodies authorized in sections 101(c)(1)(B) and 221 of H.R. 4200 be expanded to include representatives of the employed professionals.

Hydrite Chemical Co., Richard C. Honcamp, President, Milwaukee, Wisconsin.—Indicates that the company would dissolve their pension plan if it is made mandatory that after one year of employment an employee is 100-percent vested in the company pension plan.

Curtis C. Crumlett, Attorney, Minneapolis, Minnesota.—Urges early passage of the Pension Reform Bill to prevent further abuses by unfair employers in the absence of vesting provisions in existing pension and profit sharing plans. Feels that any delayed vesting would permit employers to "weed out" older employees by early termination just prior to retirement without proper cause to avoid paying them the pensions they have earned by long years of service.

Honeywell, Inc., Russell W. Laxson, Vice President, Public Affairs.—Prefers a minimum vesting period of ten years service. Opposes the five-year trigger in H.R. 4200 as much too costly. Opposes the wide open authority proposed to be granted to the Secretary of Labor to further liberalize the vesting provisions applicable to professional and scientific employees.

Paul H. Jackson, Wyatt Company, Washington, D.C.—Objects to the requirement that employee contributions be 100 percent vested with 5-percent interest. Expects this provision to force termination of some existing funds whose assets are not sufficient both to meet benefit demands and to meet this requirement.

M. John Lippman, Newport Beach, California.—Believes an amendment should be adopted to provide that in the case of an employee who terminates after obtaining some vested benefits and who later is rehired that his continuous credited service should begin anew. States that this amendment will keep employers from refusing to rehire once-terminated employees.

Martin E. Segal Company, New York, N.Y.—Asserts that although the concept of "normal retirement age" is used in calculating vested benefits, the term is nowhere defined. Argues that the definition involves not details but a broad question of substance that substantially will affect the time at which vested benefits would be required to commence. Believes that some definition of "normal retirement age" must be included in the legislation and that the age 65 is the best definition.

Recommends that public employees be temporarily exempted from the vesting provisions until the question of precisely what vesting requirements should be applied to public employee plans has been covered by the statutorily required study on public employee funding which is to be completed by the end of 1975.

Proposes a modification of the provision that vested benefits are nonforfeitable except in the event of death. Believes that such benefits should be forfeitable during any time in which an employee remains actively engaged in types of employment which are forbidden by the pension plan agreement.

Lawrence G. Bodkin, Jr., Attorney, New York, N.Y.—Approves of the reasonable proposal for mandatory vesting. Recommends that the transition period for existing plans be extended at least one year beyond January 1, 1976.

Southern States Industrial Council.—Argues in favor of the "rule of 50" vesting proposal. Believes that this plan will not drive up pension costs and would not force some employers to drop pension plans.

Arthur J. Grossman, Attorney, Chicago, Illinois.—Criticizes section 221 of H.R. 4200 because it provides that the vesting standards set forth can be made more restrictive by administrative fiat of the Commissioner or a subordinate of his as low as a technician in the District

Director's office. Claims that this leaves the area of vesting as chaotic and confused as it is today. Recommends provisions for absolute vesting standards.

National Retail Merchants Association, James R. Williams, President, New York City.—Argues that the Senate bill's vesting formula is too rapid and that any vesting formula should not be retroactively applied. Asserts that high costs would result in reducing benefits for long-service employees.

Arthur J. Riggs, Attorney, Dallas, Texas.—Fails to understand why a company should be forbidden to adopt a pure retirement program that only applies to employees who stay with it until retirement. Notes that under compulsory vesting, there is no particular incentive for an employee to stay with a particular employer until retirement. Rejects the idea that vesting is a matter of social right, claiming that in substance it is no more than compulsory severance pay. Compares a pure pension plan which provides benefits only to employees who remain with their employer to retirement to pure life insurance which pays off only if you die. Concludes that it is as logical to ban pure life insurance as it is to ban pure retirement benefits.

Jewel Companies, Inc., Chicago, Illinois, C. E. McClellan, Tax Attorney.—Agrees with the 15-year minimum vesting schedule set forth in section 411(a)(2) of H.R. 4200. Suggests, however, that the bill be amended to permit measuring years of service based on employment anniversary dates so that no employee receives an advantage or incurs a detriment because he was hired early or late in the year. Criticizes section 411(b)(2), which deals with the problem of allocating accrued benefits between employer and employee contributions for the purpose of determining an employee's vested interest in his plan, as excessively complicated and expensive to comply and administer. Recommends that the existing rules allowing the accrual of interest at a stated rate or vesting of a proportionate part of the total plan assets are preferable, just so long as the plan formula is not discriminatory.

Robert F. Spindell, Attorney, Chicago, Illinois.—Objects to the vesting provisions of the bill. Contends that: (a) the years of service before participation should not be counted; (b) age should be taken into account along with years of service; and (c) most important, the rate of vesting in a pension plan should be slower than in a profit sharing plan.

Genesco, Inc., Nashville, Tennessee, F. M. Jarman, Chairman.—Objects to the retroactive vesting requirements of the pension reform bill because they will increase the costs of their plan from 33 percent to 40 percent. Favors vesting on the order of the "rule of 50" on service after the effective date of the legislation.

South New Jersey Chamber of Commerce, David Taylor, President.—Urges adoption of a vesting schedule providing for 30-percent vesting after 7 years of continuous employment, with an additional 10 percent for each consecutive year of scervice.

Profit Sharing Council of America, L. L. O'Conner, President.—Recommends that profit-sharing plans be allowed to pay an unvested employee his own contribution and a stated rate of interest as an alternative to the proposal in H.R. 4200, if the plan pays him the exact income attributable to his contribution or charges him for the losses attributable thereto.

American Academy of Actuaries, Committee on Actuarial Principles and Practices in Connection with Pension Plans, George B. Swick.—Believes the definition of "employee's accrued benefits" in section 221 of H.R. 4200 to be in conflict with the historical determination of accrued benefits used by actuaries for purposes of plan design and funding, and that such definition should be subject to regulatory, rather than statutory determination. Expects that the current definition contained in the bill would add substantial cost to sponsors of private pension plans, or incur substantial reductions in benefits not intended by the bill.

Feels that the definition of "normal retirement age" of section 221 of the bill would require commencement of vested benefit payments much earlier than intended, and thus could add substantial cost to many pension plans. Suggests that "normal retirement age" be defined as "the normal retirement age specified in the plan, but not above age 65, or the completion of 10 years of service if later."

Reginald H. Jones, Chairman of the Board, General Electric Company.—Asserts that the statutory language defining the pension amounts to be vested should be clarified to assure that these amounts are the actual benefits accrued at the time of termination and to assure that an inflated value is not produced.

National Association of Food Chains, Clarence G. Adamy, President.—Suggests that any vesting requirements be based upon both age and years of service. Generally, favors the "Rule of 50" proposal.

Professor William Withers, Economics Dept., Queens College of the City University of New York.—Suggests 30-percent vesting after 5 years of service as a compromise between S. 4 and S. 1179.

Niagara Mohawk Power Corporation, Syracuse, New York.—Objects to mandatory specific levels of vesting which force employer and employees to lose their freedom to decide to negotiate benefit priorities. States that if some method of vesting is required it should be viewed as an alternative to portability and provide a standard which would not weaken the existing plans or increase the cost of new plans.

Jack M. Tharpe, Vice President, Standard Oil Company (Indiana).—Believes that projection of employee earnings in bill section 221 is not reasonable. Estimates that the projection method will provide a greater benefit than was actually earned during employment with a company.

Blue Bell, Inc., Greensboro, North Carolina, E. A. Morris, Chairman of the Board.—Argues that employers should have the right to decide what actions constitute forfeiture of vested benefits. Believes this is an inherent right of the employer; and that in cases where an employee leaves to work for a competitor or embezzles funds from the company or engages in other criminal activities, forfeiture of vested benefits in proportion to the wrong should be allowed.

Robert L. Barnes, Actuary, Glen Ellyn, Illinois.—Reports that, by virtue of this act, individuals who terminate employment will frequently become entitled to a benefit in excess of that earned as of the date of their termination of their employment. Explains that this is due to the fact that the act requires including the most recent year's earnings projected to normal retirement age when calculating the accrued pension, with the pension so calculated then being prorated based on the service determination date. Recommends that the calculations be based on average pay determination rather than projecting the most recent year's earnings to the normal retirement age in prorating.

R. J. Smith, Hammond, Indiana.—Reminds the Committee that profit sharing programs are a voluntary offering by management for the benefit of the employees, and that one of the inducements for management to offer profit sharing plans is the stability and low turnover of employment that it produces. Feels that 25-percent vesting at the end of 5 years as proposed would tend to encourage high turnover rates.

Walter B. Ingle, Woodland Hills, California.—Feels that an employee should be entitled to amounts contributed to a pension plan by his employer when he has stayed in a job as long as one year. Argues that a vesting period of 15 years will not benefit any workers in an industry like aerospace where the job turnover is accelerated by the nature of Government contracts.

Thomas Mitchell, Midland Mutual Life Insurance Co., Columbus, Ohio.—Expresses general approval for the vesting requirements in H.R. 4200; however, for technical reasons, would prefer to see the vesting run from the date of participation in the plan instead of from the date of service. Cites the example of an employee hired at age 18 who does not participate in the plan until age 30 at which time he would be 80 percent vested under the bill, but if his pension is funded on a level basis from age 30 to 65, there would then be, by law, a substantial unfunded, but vested benefit. Feels that such a situation is one of the prime targets for elimination through pension reform.

Mario Leo, Vice President, Research, Towers, Perrin, Forster & Crosby, Inc., Philadelphia, Pennsylvania.—States that the vesting requirement is too costly and administratively cumbersome. Believes it will increase pension costs and discourage some employers from instituting plans. Suggests the substitution of the "rule of 50" vesting requirement.

Raymond E. Jordan, Cranston, Rhode Island.—Advocates the vesting proposal instituting a "Rule of 45" guaranteeing 50-percent vesting, climbing 10 percent a year until 100 percent is reached.

Richard I. Bonsal, President, Joshua L. Bailey & Co., Inc., New York, N.Y.—Requests amendment of the pension bill to permit vested benefits to be forfeitable in the event that an ex-employee engages in prohibited competition or is convicted for illegal activity against the interests of the employer. Notes that many employment contracts with key employees have clauses prohibiting these types of activity. Believes that forfeiture of vested pension rights would act as a powerful and necessary deterrent to the violation of these provisions, and will avoid costly and time-consuming law suits.

William M. Erichson, Cold Spring, New York.—Objects to the calculation of "minimum accrued pensions" which he asserts in some cases can produce a higher pension than that contemplated under existing plan formula.

W. Anson Sperry, Mankato, Minnesota.—Calls attention to the problem of persons already past retirement age who have contributed to one or more pension plans, but who have never received vested benefits. Requests retroactive legislation to correct this problem.

Estelle Krieger, Chicago, Illinois.—Expresses support for provisions in the pension reform bill which would require vesting of pension funds within a relatively short period of years.

James A. Kleinert, Croton-on-Hudson, New York.—States that he has been employed by the Penn Central Transportation Company for 29 years, but that it is not consecutive; and, therefore, he is not eligible for a pension under their private pension plan. Indicates that he is being forced to retire for medical reasons and must forfeit all funds paid into the private pension plan for his 29 years of service. Requests enactment of legislation which will provide protection for employees with broken periods of service.

Mildred Greer, Syracuse, New York.—Feels that it is unfair for public school teachers who have spread their working career over two or three States to be excluded from drawing any retirement benefits. Urges corrective action be taken in the pension reform bill.

Durward E. Henry, Garland, Texas.—Believes that vesting requirements should be applied retroactively for non-union employees. States that employers frequently force out older employees who are not represented by unions to avoid paying pensions.

Paul Brigman, Plano, Texas.—Argues that all workers over 45 years of age should immediately be vested to remove the temptation for employers to release older white collar workers.

Corley C. King, Dallas, Texas.—Requests an amendment which would provide immediate vesting for employees over 40 for all prior years of work. States that otherwise there will be an incentive for employers to release some older employees.

C. R. Morgan, Treasurer, National Gypsum Company.—Argues that vesting at an early age will result in prohibitive cost factors. Prefers the vesting requirements of H.R. 9232 and H.R. 9824.

F. M. Wachtendorf, Mesquite, Texas.—Argues for provision which immediately vests workers age 40 or over for those years of employment before enactment of the bill. Believes that without such provision some employers will terminate older employees.

J. F. Duckley, Richardson, Texas.—Proposes a provision to provide immediate vesting for prior years service for those workers that have already served 15 years.

Charles Partain, Horst, Texas.—Believes that provision should be added to the bill so that persons with 15 or more years of service will immediately have vested rights to benefits from those years of service. Feels that such provision will prevent employers from terminating older employees over the next few years.

Jackson Bogert, Dallas, Texas.—Advocates an amendment to provide immediate vesting for prior service in the case of persons age 45 or over. States that without such an amendment a 45-year-old person will not obtain full vesting until age 60. Believes that employers will terminate many of these employees.

Jack G. Finklea, Dallas, Texas.—Indicates that a provision providing immediate vesting for prior service in the case of persons 45 years or older is essential to prevent employers from terminating older employees within the next 15 years.

Keith Anderson, Arvada, Colorado.—Approves of the bill's schedule for vesting. Suggests that some provision be made for employees currently over 55 years of age who do not have vested rights of 50 percent or more.

D. Funding

Honorable Richard W. Mallery, Member of Congress, Vermont.—Urges a closer look at single employer pension funds. Considers the risk of loss in a multiemployer fund as much less than for a single employer fund.

AFL–CIO, Andrew J. Biemiller, Director, Department of Legislation.—Supports a funding standard of 30 years for single employer plans and of 40 years for multiemployer plans; provided, however, that multiemployer plans be allowed to petition for a variance from this standard. Maintains that different treatment for single employer and multiemployer plans are necessary because statistics indicate that losses in multiemployer plans due to employer termination have been miniscule and will be reduced even further by the vesting and funding provisions of H.R. 4200. Proposes a less stringent funding standard for multiemployer plans. Concludes that "interest only" funding provides almost complete protection to plan participants in a multiemployer plan.

United Steel Workers of America, I. W. Abel, President.—Points out that section 241 of H.R. 4200, inserting a new section 497(b)(2)(B) of the Code, would prevent the funding of past service liabilities by the percentage-of-payroll method, which is based on expected increases in total payroll, unless the amortization period is reduced to less than 30 years. Maintains that the result is, as a practical matter. the outlawing of the percentage-of-payroll method for the purpose of amortizing unfunded past service liability. Points out that the failure to allow for such increases in the cost calculation will result in an experience deficiency when an increase actually occurs. Urges that the pension reform bill be amended to authorize the percentage-of-payroll method for plans in which the pension amount is dependent upon compensation.

R. B. Cole, Vice President and Treasurer, E. I. du Pont deNemours and Company, Wilmington, Delaware.—Objects to the requirement that for purposes of funding valuation of plan assets be made on the basis of average value for 5 or fewer years. States that most pension funds presently use cost valuation and that no specific asset valuation method should be required in the bill, but rather should be left to the qualified actuary for each pension fund.

Profit Sharing Council of America, L. L. O'Connor, President.—Supports provisions which would allow discretionary funding formulas for profit sharing plans.

The National Association of Food Chains, Clarence G. Adamy, President.—Believes that legislation should contain minimum funding requirements based on sound actuarial principles.

Professor William Withers, Department of Economics, Queens College of the City University of New York.—Notes that S. 4 and S. 1179 require full funding after 30 years. Feels for reasons of safety it would seem that not only should current liabilities be funded immediately, but total liabilities should be funded in less than 30 years (perhaps 20 years), although this would mean a considerable increase in the rates of contributions.

Proposes that amendments to a plan which result in a 5 percent or more addition to the unfunded liabilities should be split-off and funded on a separate 30-year schedule (as in S. 1179). Recommends amortization of experience deficiencies in 5 years (as in S. 4).

American Academy of Actuaries, Committee on Actuarial Principles and Practices in Connection With Pension Plans.—Contends that the method prescribed for valuing assets in section 241 of the bill is overly restrictive. Suggests the deletion of the words "on the basis of average value for five or fewer years" in paragraph (c)(1) of section 241.

Reginald H. Jones, Chairman of the Board, General Electric Company.—Believes that amortization of gains and losses to be used in determining minimum funding amounts should be permitted for any reasonable period up to 15 years rather than for a fixed period of 15 years. Asserts that the Senate bill provides a rather inflexible method of valuing fund assets.

National Automobile Dealers Association.—Feels that the 5-percent penalty provision for any accumulated funding deficiency is neither fair nor necessary. Recognizes the need for some penalty provision, but believes that a smaller figure would serve the purpose of encouraging timely contributions while at the same time not placing an excessive burden upon the employer.

Container Corporation of America, R. C. Bittenbender, Senior Vice President.—Suggests that the amortization period of 30 years or less for unfunded past service liability be eliminated, if the current past service liability does not exceed the past service liability originally established. Submits as an alternative that there should be no time limitation for funding a past service liability as long as there is maintained a certain ratio of net worth of the employer to the past service liability.

Monsanto Company, St. Louis, Missouri, W. B. Daume, Director, Corporate Personnel Department.—Supports the 30-year funding provisions of H.R. 4200, but objects to the extra complications and costs involved in the 15-year amortization requirements for net experience loss for each plan year. Disputes the reasonableness of imposing a mandatory method for fund assets.

Advance Retirement Systems Corporation, Van Nuys, California, Gerald Goldstein, President.—Notes that cash basis taxpayers must make their contributions to qualified plans prior to the end of the fiscal year in order to gain a deduction for that year, while accrual taxpayers are allowed to make their deposits within 75 days following the end of the corporate fiscal year. Points out that often final payroll data is not available generally until a month or two after the fiscal year. Believes that contributions to qualified plans whether from a cash basis taxpayer or accrual basis taxpayer should be made subject to the 75-day extension pension period currently offered to accrual basis taxpayers.

Herman C. Biegel and John A. Cardon, Attorneys, Washington, D.C.—Disagree with the requirement that funding deficienies be identified because it is not realistic in an actuarial sense to identify such deficiencies. State that in most cases these deficiencies will be temporary fluctuations in asset values and can be absorbed over the remaining service of participating employees. Object to the required valuation of asset method, stating that few if any plans use the market value average. Recommend that the valuation method be left to the plan's actuary.

W. A. Greene, Vice President, Barbara Greene Company, Aurora, Illinois.—Believes that funding standards presently set by the Internal Revenue Service and by the Accounting Principals Board are satisfactory. Argues that any 30-year funding requirement adds unnecessarily to the expense of a private plan without improving employee benefits.

Association of General Merchandise Chains, Inc., Washington, D.C.—Proposes that the funding of benefits be determined by amortizing benefits over not less than a 40-year period. States that more accelerated funding would preclude many employers from establishing new pension plans.

Pacific Power and Light Company, Portland, Oregon, Don C. Frisbee. Chairman of the Board.—Calls attention to the fact that the value of assets of a qualified plan shall be determined in accordance with regulations prescribed by the Secretary of the Treasury on the basis of "average value for five or fewer years", but that the term "average value" is not precisely defined. Warns that if it be interpreted as meaning average *market* value then every plan fund is exposed to the vagaries of market and may find itself overfunded on one valuation date and underfunded in the next. Argues that such interpretation would be grossly inequitable in light of the provisions of section 241 of the bill which contains stringent penalties for funding deficiencies.

Harris Trust and Savings Bank, Chicago, Illinois, C. J. Hambleton, President.—Recommends a more flexible approach to funding options in order to allow employers to individualize retirement plans to meet specific requirements.

Boise Cascade Corporation.—Believes that a 30-year funding requirement is reasonable as long as actuarial standards and assumptions are not mandated by legislation.

Trustees of the Western Conference of Teamsters Pension Trust, T. N. McNamara, Counsel.—Reports that most bargaining agreements under multiemployer plans require the employer to contribute at a specified rate, and then the trustees set the benefit levels they believe can be supported by that rate. Notes, therefore, that the only remedy for a funding deficiency is an adjustment in the benefit level for a given contribution rate. Regards, therefore, the penalty taxes for funding deficiencies as inappropriate in multiemployer situations.

Honeywell, Inc., Russell W. Laxson, Vice President, Public Affairs.—Objects to the amortization of experienced gains or losses over a maximum of 15 years, and feels that a period equal to the average remaining life to normal retirement date of all participants would be equitable.

Paul H. Jackson, Wyatt Company, Washington, D.C.—Opposes the method of valuation of pension plan assets for funding purposes as described in the Senate Finance Committee Report. States that the method is one that has not been adopted by private plans, and is not used in Canada or Great Britain where pensions have been regulated for some time. Believes the method is arbitrary and inappropriate for use in connection with actuarial evaluation.

Richard A. Van Deuren, Attorney, Milwaukee, Wisconsin.—Objects to the prohibition against pay-as-you-go retirement plans in H.R. 4200. Claims that many companies are unable to adopt funding programs, but nevertheless, do make retirement payments on a pay-as-you-go basis. Asks whether these retirement payments to employees must be stopped.

H. W. Lochner, Inc., Chicago, Illinois, Harry W. Lochner, Jr.—Opposes the compulsory contribution formula of H.R. 4200, and believes that allowance should be made for discretionary contribution provisions. Feels that determination of a contribution from year to year must be a management prerogative, based not only on the level of profitability for the current year, but also on the firm's rate of expansion, overall rate of profitability in previous and future years, capital requirements, level of activity and employee effort, and other factors.

Robert L. Barnes, Actuary, Glen Ellyn, Illinois.—Fears that plant administrators and employers will adopt actuarial methods and assumptions that produce the lowest pension costs because there is no reference in the acts to actuarial costs methods that are completely acceptable and because any changes in actuarial methods or assumptions require approval of the Secretary.

Mario Leo, Vice President, Research, Towers, Perrin, Foster & Crosby, Inc., Philadelphia, Pennsylvania.—Argues that the bill's funding provisions are unnecessarily complicated and technical. Urges that the provisions on valuation of pension trust assets be deleted.

M. John Lippman, Newport Beach, California.—Believes the bill should contain a provision which takes into consideration possible offsets of actuarial gains against contribution deficiencies. States that without such provision cost deficiencies will tend to overfund a pension plan.

Robert F. Spindell, Attorney, Chicago, Illinois.—Opposes the funding requirements of the pension reform bill on the grounds that it makes the unfunded past service costs of an employer's pension plan an obligation that would have to be shown on his balance sheet as a liability.

P. P. G. Industries, Inc., Washington, D.C., Jack Woolley, Manager, Federal Government Affairs.—Argues that additional minimum funding requirements are not necessary in light of the current IRS regulations regarding funding, and that flexibility is required to meet the many unique problems of companies and different industries.

Martin E. Segal Company, New York, N.Y.—Objects to the provision that requires pension plan assets for purposes of determining the adequacy of funding to be calculated at an average value of five or fewer years. Asserts that this standard is very vague, establishes a new and untried method of calculation, and is of dubious validity.

Laurence G. Bodkin, Jr., Attorney, New York, N.Y.—Believes that the funding provisions are sound and reasonable and that the allowable 30-year period for meeting the fund test should not cause an onerous burden on the employer.

Leonard Bailin, New York, N.Y.—Proposes that the minimum funding standards be relaxed with respect to contributions on behalf of shareholders. Believes that this relaxation will provide relief in a situation where an employer has sufficient funds to cover employee requirements except for office shareholders.

Keith Anderson, Arvada, Colorado.—Suggests that funding should be set at the normal costs of the plan for the plan year plus amounts necessary to amortize unfunded past service liabilities over a period of 30 years.

Philip H. Weber, Weber Financial Inc., Fresno, California.—Recommends that the provision allowing five waivers out of ten years in terms of annual funding to make up a deficiency in funding be cut to two years, and that each plan's funding be actuarially certified annually rather than every three years.

E. Portability

Honorable Tom Railsback, Member of Congress, Illinois.—Believes that the portability provisions involve especially complex questions which require exhaustive consideration before any solution is attempted. Urges that the present provisions of the Senate bill be changed to provide for a portability study to be undertaken at this time.

Honorable Clarence D. Long, Member of Congress, Maryland.—Maintains that pension legislation must include a provision for mandatory portability, without which the result is economic bondage to one employer.

Honorable John D. Dingell, Member of Congress, Michigan.—Favors provisions for establishing a portability fund.

United Steel Workers of America, I. W. Abel, President.—Argues that the objectives of portability can be better attained through the use of a payments mechanism of a Federal agency, rather than a portability fund. Believes that the portability fund proposed would be unmanageable and destructive. Describes the functions of a Payments Agency as the collection of information about all the benefits due to individuals in covered plans and the billing of the proper plan or plans or, if the plan had been terminated, the pension benefit guaranty fund, for the vested benefit on which payment has become due to any individual. Explains that the Payments Agency would present bills to the plans in advance of the date they are payable to an individual, and that there would be penalties for failure to make prompt remittance following submission of the bill.

Council of State Chambers of Commerce, Federal Finance Comittee.—Maintains that the vesting provisions remove any true need for portability provisions as protection for employees. Recommends elimination of the portability provision but with retention of the tax-free transfer of vested benefits.

R. B. Cole, Vice President and Treasurer, E. I. duPont deNemours and Company, Wilmington, Delaware.—Opposes portability and expresses concern that voluntary portability will lead to mandatory portability. States that, assuming reasonable vesting and funding requirements, no demonstration has been made that portability is necesstary or desirable.

AFL–CIO, Andrew J. Biemiller, Director, Department of Legislation.—Praises the portability provisions of H.R. 4200, since participation in the program is voluntary on the part of both the employer and the employee. Predicts that few employers will be interested in participating in the portability provisions, especially in cases where the plan is not fully funded; and that employees will not be interested in participating because of the cost the investment restrictions would impose on the portability fund would make the amount of one check less than the sum of separate checks they would get from different employers.

American Association of Personnel Administration.—Criticizes the provision for voluntary portability of benefits because it is frought with endless questions about valuation of benefits and transfers of assets and because it will serve only to make it more difficult to get benefits to participants. Fears that it will certainly lead shortly to mandatory portability, and urges the deletion of the portability provisions from the pension reform bill.

National Association of Food Chains, Clarence G. Adamy, President.—Contends that portability provisions are not necessary because of vesting requirements, and are not desirable because of the complicated aspects of implementation.

Professor William Withers, Dept. of Economics, Queens College of the City University of New York.—Believes that the tax code should be amended to make it clear that the proposed separate portability fund is a qualified tax-exempt pension fund (as in S. 1179).

Ernest J. E. Griffes, National Committee on Compensation and Benefits.—Asserts that the portability provisions are filled with endless questions concerning valuation of benefits and transfers of assets which will lead to complicated administrative procedures. Feels that the liberalization of vesting combined with expanded disclosure of information protects participant benefits adequately.

Reginald H. Jones, Chairman of the Board, General Electric Company.—Urges that the provisions relating to portability be eliminated. Feels that such provisions are unnecessary as long as reasonable vesting provisions are included and that the portability provisions will cause many new complications in administration.

Niagara Mohawk Power Corporation, Syracuse, New York.—Believes that portability is unnecessary given reasonable vesting standards. Indicates that pension plans differ substantially from company to company and that any portability plan would be difficult to administer.

South New Jersey Chamber of Commerce, David Taylor, President.—Argues that with reasonable vesting standards any proposed portability system is not needed and involves inherent problems such as the difficulties of transferring credits from one employer to another if both have significantly different plans. Also believes that any portability system will involve a complex set of rules that could work to the disadvantage of transferring employees and would involve higher administrative costs which could be self-defeating.

National Automobile Dealers Association.—Objects strongly to any type of mandatory portability provision because it would destroy the "attracting and holding good employees" reason for which most employers accept the additional burden of funding a private pension plan.

Associated Industries of New York State, Inc., Albany, New York. Gerald A. Donahue, Director of Government Affairs.—Opposes the concept of portability because with mandatory vesting, the need for portability is removed, and because it will unnecessarily create a strata of bureaucracy which inevitably commands a share of Federal tax revenues.

Container Corporation of America, R. C. Bittenbender, Senior Vice President.—Argues that the proposed Pension Benefit Guaranty Corporation as it relates to the central portability fund is administratively impracticable. Urges that this feature, even on a voluntary basis, be eliminated.

Kenneth W. Murray, Manager, Command and Information Systems, General Electric Company, Sunnyvale, California.—Argues that a sound vesting program negates the necessity for any portability provisions. Believes that even voluntary portability can lead to administrative complications and quarrels between employees and companies.

Ben J. Kerr, Jr., Executive Trust Officer, Mercantile National Bank, Dallas, Texas.—Opposes the creation of a central portability fund and the delegation to the Social Security Administration of keeping the records of private retirement plans. Argues that portability defeats the premise of retirement plans, which is to retain and reward faithful employees for service to a company. Claims that terminated employees can be adequately protected by minimum funding and vesting requirements and paid-up benefit provisions.

Harold M. Wisely, Group Vice President, Eli Lilly and Company.—Does not object to a voluntary portability system; but opposes any mandatory system because such a system would unreasonably add to the cost of maintaining plans.

Advance Retirement Systems Corporation, Van Nuys, California, Gerald Goldstein, President.—Suggests that a terminating employee be given the option of transferring his vested pension rights to the new Federal pension fund or leaving them with the old employer for a twelve-month period, allowing direct transfer of the funds to the new employer should he accept a new job.

International Chemical Workers' Union, Akron, Ohio, Frank D. Martino, Sec.-Treas.—Maintains that the lack of portability of pension rights decreases the mobility of our workforce and thus decreases the efficiency of our economy in allocating manpower resources. Urges the House to provide for mandatory portability of pension credits.

Monsanto Company, St. Louis, Missouri, W. B. Daume, Director, Corporate Personnel Department.—Charges that the portability provisions can actually be counterproductive, because they could create large problem areas and expense. Maintains that it is an extremely difficult, if not equitably impossible, problem to value the liabilities and thus the amount of funds that should be transferred. Points out that the Senate Finance Committee has gone on record against establishing specific actuarial assumptions and methods, because they may differ substantially between industries, among firms, geographically, and over different periods of time.

Paul D. Schauer, Government Relations Specialist, Gates Rubber Company, Denver, Colorado.—Maintains that portability as provided in the Senate-passed bill would create much confusion, and is not necessary in light of the vesting provisions of the bill.

G. L. Deal, Vice President, The Timken Company, Canton, Ohio.—Objects to the portability provisions of H.R. 4200. Asserts that the objectives of portability can be better achieved by vesting and guaranteeing that the proper benefits will be paid upon retirement.

National Society of Professional Engineers, Washington, D.C.—Believes that until immediate vesting is achieved, a separate portability program is highly desirable.

American Bar Association, Section of Taxation, K. Martin Worthy, Chairman.—Recommends that the portability provisions be made applicable to self-employed participants as well as to corporate employees to eliminate the inequality of treatment based on the form of business of the employer.

The American Bankers Association.—Objects to portability provisions involving a Government agency because no proposal today has dealt with all the problems which would be created.

California Bankers Association, John W. Kesner, Chairman, Committee on Employee Benefit Trusts.—Favors providing the financial security for employee benefits by minimum vesting and funding, rather than plan termination insurance and portability. Asserts that there has not been a really workable plan developed for either plan termination insurance or portability of benefits.

The First National Bank of Chicago, William K. Stevens, Vice President.—Feels that the proposed Federal vesting and funding standards would obviate the need for elaborate portability programs envisioned under H.R. 4200. Criticizes the portability provisions because they might force the trustee to sell assets at a time when market value of those assets is depressed and because it would require more assets to be invested in a liquid form with the result that the fund's rate of return would be reduced.

P.P.G. Industries, Inc., Washington, D.C., Jack Woolley, Manager, Federal Government Affairs.—Maintains that the portability provisions are unnecessary in light of the requirements that a company notify the Social Security Administration of vested benefits.

Harris Trust and Savings Bank, Chicago, Illinois, C. J. Hambleton, President.—Opposes portability as presently outlined in H.R. 4200, and maintains that the mechanisms of operation are awkward and possibly unworkable. Questions the need for portability.

Ian K. Lamberton, Financial Executives Institute, New York, New York.—Believes the need for portability protection is de minimis when one considers requirements of vesting, funding and fiduciary standards. Asserts that the provisions would require the establishment of an administrative monster to calculate the values of future benefits for transfer to a central bank or between pension plans with different benefits.

C. R. Morgan, Treasurer, National Gypsum Company.—Believes that given the vesting provision, the portability provision is totally unnecessary.

Boise Cascade Corporation.—Objects to the portability provisions because: there would have to be similar actuarial assumptions in order to transfer equitable amounts to the central fund; there would have to be rigid control over investments; company costs would be increased; pension plans would lose their "holding power" over employees; and an easier solution could be provided by shorter vesting periods.

J. C. Perkins, Vice President, Shell Oil Company.—Argues that the portability provisions are unnecessary given the vesting, funding, and lump-sum rollover provisions of the bill.

Reuben Gutoff, Senior Vice President, General Electric Company.—Believes that no portability provisions are required as long as sound vesting programs are included. States that portability carries with it serious dangers to plans from which employees withdraw plus serious additional administrative problems.

Robert M. Leventhal, Chairman, Legislative Committee, Council of Engineers and Scientists Organizations.—Expresses disappointment at the voluntary nature of the portability provisions, but recognizes the substantial problems in attempting to solve this highly complex problem in one piece of legislation.

Honeywell, Inc., Russell W. Laxson, Vice President, Public Affairs.—Believes that the portability provisions would be an unnecessary and costly process that would lead to much confusion and misunderstanding. Argues that there is no problem from the employer's standpoint of maintaining records on terminating employees' vested benefits and beginning monthly payments when the individual reaches age 65. Recommends the elimination of this entire section.

Herman C. Biegel and John A. Cardon, Attorneys Washington, D.C.—Object to portability provisions because mandated vesting and funding requirements will insure employee rights while the portability requirement could drain assets of plans, thus rendering the benefits to remaining employees less secure since few plans are or will be fully funded. State that complex problems would be created because each pension plan is different. See as a possible result a demand for standardized or identically vested plans, thus completely eliminating the flexibility desired by both employees and employers.

Laurence G. Bodkin, Jr., Attorney, New York, N.Y.—Believes the portability provisions of the plan should be dropped: first, because the proposal involves too many elections to be practical; and second, because the plan will become more practical at a later date when vesting, funding, and actuarial methods will be more uniform as a result of the enactment the rest of the bill.

Southern States Industrial Council.—Opposes any provision for portability of pensions. Believes such provisions are expensive, complicated, and are adequately provided for by true, reasonable vesting.

Richard N. Bail, Boston, Massachusetts.—Objects to the exclusion of the self-employed from participation in the voluntary portability fund. Feels that this discrimination is inconsistent with the general purpose of equalizing the treatment of self-employed professional and common law employee groups. Believes that such a portability procedure would be useful in drafting plans for the self-employed since such plans must take into account the strong possibility that a business may come to an end before complete distribution is permitted.

W. A. Greene, Vice President, Barbara Greene Company, Aurora, Illinois.—Believes that with adequate vesting standards the portability system is unnecessary and will be very costly to employers.

Philip H. Weber, Deber Financial, Inc., Fresno, California.—Agrees with the concept of portability, but believes that some sort of minimum should be placed on the amount that an employee can transfer to avoid the headaches iivolved in transferring small amounts of money. Supports proposals which would allow any bank or insurance company to serve as a trustee of portable funds, rather than the establishment of a National fund with more red tape.

Barry M. Kuhl, Omaha, Nebraska.—Believes that any portability provisions are totally unnecessary in view of the proposed vesting requirements and the requirement that employers must report to Social Security those employees who terminate with vested rights.

Mario Leo, Vice President-Research, Towers, Perrin, Forster & Crosby, Inc., Philadelphia, Pennsylvania.—Concludes that no portability provision is needed in view of the vesting requirements that will be legislated.

F. Plan Termination Insurance

Honorable Donald M. Fraser, Member of Congress, Minnesota.—Strongly supports inclusion of plan termination insurance, and urges the committee to consider liberalizing the percentage guaranteed to 75 percent of the average wages for the last three years of employment.

Honorable Clarence D. Long, Member of Congress, Maryland.—Endorses pension plan insurance. Questions the rationale for having a Federal guarantee of bank deposits and not one for pensions, in light of the fact that many workers have more money in their pensions than they do in their bank deposits.

AFL-CIO, Andrew J. Biemiller, Director, Department of Legislation.—Strongly supports a termination insurance program. Opposes experience rating of plans within each class, but endorses the concept that there should be two risk pools or, at least, two separate premium rates—one for single employer plans and another for multiemployer plans.

United Steel Workers of America, I. W. Abel, President.—Supports the provisions providing for plan termination insurance. Recommends that payments from the Pension Benefit Guaranty Corporation increase (up to the maximum allowable) in the event that a terminated plan provided by a formula that pensions were to be increased after retirement.

Believes that plan termination insurance premiums that are based solely upon the number of participants in a plan would be most unfair to plans in which the risk is substantially less than the risk of other plans. Doubts that the proposed premium tax could survive if challenged in the courts. Recommends that the premium tax be measured by the unfunded vested liabilities—the amount of which is to be calculated for all plans on identical interest and mortality basis.

Aetna Life Insurance Company, Hartford, Connecticut, Donald M. Johnson, President.—Interprets section 403 of H.R. 4200 to require an employer maintaining two or more plans covering the same employee to pay the $1 pension benefit guaranty fund fee for each employee under each plan. Submits that this requirement is unreasonable since risk to the guaranty fund is no greater under two plans than risk if the plans were combined. Recommends that the rate be modified so no employer or affiliated group of employers need pay more than $1 for each employee per year.

United Auto Workers, Leonard Woodcock, President.—Opposes the postponement of the effective implementation of termination insurance until 1977. Argues that the numerous examples of pension terminations dictates that a way be found to protect victims of plan terminations in 1974, 1975 and 1976.

United Bank of Denver.—Believes that portability and insurance provisions of the bill should be eliminated on the grounds that each would be too complex and costly to administer and are rendered unnecessary by the adequate funding investing standards adopted. Fears that the high insurance rates, the cost of increased recordkeeping in transactions, and the voluminous reporting procedures would discourage many employers from participating in the private pension field. Observes that the portability and insurance provisions would necessitate a substantial increase in government costs to administer the Pension Benefit Guaranty Corporation.

American Society for Personnel Administration, Ernest J. E. Griffes.—Believes that the initiative of private industry and insurors should be given an opportunity to create, through private enterprise, an answer to the protection of benefits in the event of plan terminations. Recommends a time period of 3 years for private industry to solve this problem.

Associated Industries of New York State, Inc., Albany, New York, Gerald A. Donahue, Director of Government Affairs.—Suggests that the plan termination insurance feature be eliminated as unnecessary, but believes that as an alternative the private sector should not be deprived of its right to participate in providing termination insurance.

Tax Committee of the American Textile Manufacturers Institute.—Argues for a deletion of the termination insurance provisions because such provisions are unfair in imposing premium liability on all employers, including those with fully funded plans, and because such insurance is of marginal importance given the new funding requirements and other safeguards of the bill.

American Telephone and Telegraph Company.—Fails to see the need for a pension plan termination insurance program. Believes, however, that if it is considered necessary, the guaranteed benefits should be reduced and expressed as a percent of salary per year of service. Considers the $750 maximum to be higher than appropriate for an insured maximum. Criticizes the termination insurance provisions because they discriminate against well-funded plans.

General Electric Company, Cecil S. Semple, Commercial Vice President.—Believes that pension termination insurance is unnecessary and will have a serious detrimental affect on the operation of the private pension plans because of restrictions on operation from overregulation and because of undue encouragement of irresponsibility by some employers and unions in providing excess benefits without proper financial backing. Feels that if Congress desires to require insurance, it would be far more practical to use private insurance.

Ben J. Kerr, Jr., Executive Trust Officer, Mercantile National Bank, Dallas, Texas.—Objects to the pension insurance program; but in the event it should be enacted, maintains that it should be limited to those plans which are below the minimum funding standards so as not to penalize properly funded and administered plans.

Paul H. Jackson, Wyatt Company, Washington, D.C.—Objects to the broad and extensive powers over employer financing plan operations and the financial affairs of individual Americans given to the Pension Benefit Guaranty Corporation. Believes the program fails to solve any of the problems of personal deprivation arising out of plan terminations in the past because protection is deferred for several years while the new corporation accumulates funds and experience. Argues that the insurance program should be rewritten to provide for a pay-as-you-go federally operated reinsurance program which would pick up the lost pension rights of those involved in the cases documented by the Senate Labor Committee study when they reach 65 years of age.

Honeywell, Inc., Russell W. Laxson, Vice President, Public Affairs.—Charges that there has been no basis established to develop an equitable premium arrangement for plan termination insurance, and doubts that such is possible. Urges deletion of this section because its effect is to syphon funds from strong, well-financed plans to subsidize unprofitable operations or those that promise more than can reasonably be delivered.

The American Bankers Association.—Opposes termination insurance of any guarantees. Claims that the vesting and funding requirements which substantially reduce any need for such insurance.

The First National Bank of Chicago, William K. Stevens, Vice President.—Argues that, if a tax is to be imposed for plan termination insurance, an exception should be made for fully funded plans. Submits that it would be prudent for Congress to wait several years in order to observe the effect of the new funding provisions on plan terminations. Suggests that it may be that experience under the new legislation will indicate that plan termination insurance will not be needed for the forseeable future.

C. T. Hellmuth, C.L.U., Washington, D.C.—Strongly recommends against plan termination insurance because it would inhibit the establishment of new retirement plans, it would be complicated to administer, and it would require the successful employers to subsidize the incompetent.

Herman C. Biegel and John A. Cardon, Attorneys, Washington, D.C.—Object not to the cost of the Government insurance program but to the degree to which an insurance proposal will regulate the private retirement system and create needless new rules and regulations. Are convinced that a private system of benefit insurance can be worked out swiftly which would be acceptable to all concerned.

Edward H. Friend & Company, Washington, D.C.—Recommends that the annual reinsurance premium tax be determined as a specified premium rate (such as two-tenths of 1 percent, or other appropriate percentage) multiplied by the plan termination liability (amount by which insurable vesting liabilities exceed plan assets).

P.P.G. Industries, Inc., Washington, D.C. Jack Woolley, Manager, Federal Government Affairs.—Charges that plan termination insurance would certainly penalize the sound pension plans and favor marginal plans.

Ian K. Lamberton, Financial Executives Institute, New York, N.Y.— Contends that plan termination insurance is an untimely requirement since no conclusive evidence exists that such insurance will be required after enactment of this bill. Argues that the $1.00 per participant premium should relate to the value of insurance coverage—specifically to the amount of unfunded liabilities under an individual plan.

J. C. Perkins, Vice President, Shell Oil Company.—Believes that the problems which will be helped by an insurance program will be very small given the new funding and fiduciary standards and other requirements of the legislation. Maintains that any insurance would present an extremely burdensome administrative problem for both government and private industry.

Reuben Gutoff, Senior Vice President, General Electric Company.—Argues that termination insurance would be most appropriate if provided through private insurance companies so that no encouragement of any irresponsibility on behalf of employers or labor unions is provided.

Robert M. Leventhal, Chairman, Legislative Committee, Council of Engineers and Scientists Organizations.—Questions the adequacy of the $750 maximum benefit which may be paid under plan termination insurance. Suggests that the Secretary of Labor have the authority to review the adequacy of the maximum each three years, and to increase that maximum in his discretion if needed to meet the intent of the act, but not in excess of 25 percent of the then existing maximum at each such review.

Columbia Gas System.—Charges that the 30-percent preferential creditor treatment for the Pension Benefit Guaranty Corporation under the plan termination insurance provisions will have far-reaching ramifications upon the abilities of companies to obtain long-term financing, especially in markets where bondholders require certain restrictions with respect to total debt and liability.

Opposes the whole concept of termination insurance. Contends that the initial $1 per employee premium is an arbitrary determination because it does not take into account existing unfunded liability.

Harris Trust and Savings Bank, Chicago, Illinois, C. J. Hambleton, President.—Opposes reinsurance as presently outlined in H.R. 4200. Maintains that the mechanisms of operation are awkward and possibly unworkable. Questions the need for reinsurance.

Daniel I. Halperin, University of Pennsylvania Law School.—States that the plan termination insurance program seems generally to be on the right track in putting primary emphasis on employer liability and limiting that liability to 30 percent of net worth. Believes proprietary employees and the self-employed should be treated alike and neither should be able to collect from the insurance fund to the extent that asset shortages are due to a failure to live up to funding standards.

Kenneth W. Murray, Manager, Command and Information Systems, General Electric Company, Sunnyvale, California.—Contends that termination insurance is not only unnecessary but through over-regulation and encouragement of irresponsibility to some employers can be detrimental. Feels that if some insurance is necessary, private insurance would be more practical.

Harold M. Wisely, Group Vice President, Eli Lilly and Company.—Asserts that a system of termination insurance will inevitably involve the Government in determining asset valuations and actuarial assumptions, with a resulting additional cost for pension plans. Submits that the imposition of funding and vesting controls will eliminate most of the causes of pension benefit losses.

Martin E. Segal Company, New York, N.Y.—Objects to the bill's reinsurance limit of 50 percent of average compensation or $750 per month as applied to plans which compute benefits without respect to compensation.

Southern States Industrial Council.—Opposes provisions for plan termination insurance. Argues that such plans would be complex and would require administrative control and regulation of every aspect of private pension plans by the Government.

Monsanto Company, St. Louis, Missouri, W. B. Daume, Director, Corporate Personnel Department.—Believes that protection of pension benefits will be served more effectively through reasonable, minimum vesting and funding requirements than through plan termination insurance. Contends that a definite need for plan termination insurance has not been established, that the insurance would require extensive regulation and a new bureaucracy, and that the employer's liability for fund reimbursement would compound a financially troubled employer's problems and further reduce access to credit.

Boise Cascade Corporation.—Maintains that pension insurance will not be needed if prudent, reasonable funding standards are mandated. Fears that an effective insurance program would require rigid control of pension plans, including mandated uniform actuarial standards, standardized vesting, similar benefit formulas, and stringent restrictions on investments.

W. A. Greene, Vice President, Barbara Greene Company, Aurora, Illinois.—Believes that any plan termination insurance program will be elaborate and costly and will result in companies with sound plans financing companies with unsound plans. States that employee's unions and private insurance companies should provide protection against termination losses.

R. B. Cole, Vice President and Treasurer, E. I. duPont deNemours and Company, Wilmington, Delaware.—Opposes plan termination insurance of unfunded vested liabilities. Argues that no demonstration has been made that the amount of benefits actually lost on plan terminations is sufficiently substantial to warrant the creation of a new, large Government organization. Suggests the insurance program could lead to even more extensive Government intervention into the administration of private pension funds.

George B. Swick, Actuary, New York, N.Y.—Points out that section 424 of H.R. 4200 gives the Pension Benefit Guaranty Corporation authority to insure anything which might be deemed connected with a pension plan, without congressional review. Believes that the potential cost implications of section 424 are staggering. Urges either: (1) that section 424 be deleted, with expansion of benefit coverage requiring future congressional action; or as a minimum (2) that congressional review provisions of section 403(d) be expanded to cover any benefits to the insured under section 424.

Genesco, Inc., Nashville, Tennessee, F. M. Jarman, Chairman.—Disagrees with the need for a premium tax for plan termination insurance. Claims that this tax would provide revenues estimated at about three times the amount of benefits lost to all employees because of terminations.

Arthur I. Grossman, Attorney, Chicago, Illinois.—Recommends that an employer's contingent liability on termination of a plan should be subordinated to the claims of all general creditors existing at the time the plan terminates.

California Bankers Association, John W. Kasner, Chairman, Committee on Employee Benefit Trusts.—Contends that financial security for pension benefits can be provided through vesting and funding requirements rather than termination insurance. Argues that there has not been a workable plan developed yet for termination insurance.

John K. Armstrong, New York, N.Y.—Urges the House of Representatives not to adopt legislation containing a provision for mandatory termination insurance, because requiring each employer to contribute to an insurance fund regardless of the funding status of its pension plan forces the responsible members of the community to subsidize the irresponsible.

Paul D. Schauer, Government Relations Specialist, Gates Rubber Company, Denver, Colorado.—Opposes plan termination insurance on the grounds that the cost is not justified by the incident rate of failure of pension plans. Quotes a U.S. Treasury Department study which showed that of all single employer pension plans, only 0.08 percent of those individuals covered lost any benefits during 1972. Suggests that if plan termination insurance is to be enacted, the premiums should be determined by the amount of unfunded liability.

National Retail Merchants Association, James R. Williams, President.—Believes that termination insurance is unnecessary given the small percentage of workers who have lost benefits. Feels that such insurance will inevitably mean a large bureaucracy.

The National Association of Food Chains, Clarence G. Adamy, President.—Considers insurance unnecessary with adequate funding and sound actuarial principles.

Professor William Withers, Department of Economics, Queens College of the City University of New York.—Prefers the S. 4 provision on insurance in that it makes employer liability subordinate only to tax liens.

Ernest J. E. Griffes, National Committee on Compensation and Benefits.—Expresses concern over a Government insurance program. Believes that pension losses are very small and that private industry should be given some period of time to initiate a private insurance program before Government action is taken.

Reginald H. Jones, Chairman of the Board, General Electric Company.—Believes that the insurance provision may have the effect of encouraging irresponsibility on the part of employers and providing excess benefits beyond financial capabilities. States that if some insurance is essential then a nongovernmental program should be developed.

Niagara Mohawk Power Corporation, Syracuse, New York.—Asserts that making corporations liable for a portion of plan termination benefits would be a real deterrent to the creation of new plans and the improvement of existing plans.

Blue Bell, Inc., Greensboro, North Carolina, E. A. Morris, Chairman of the Board.—Maintains that only pension funds which are not fully funded or fail to meet minimum funding standards should be required by law to insure the plan and that the insurance should be paid by those plans.

C. R. Morgan, Treasurer, National Gypsum Company.—Contends that Government insurance would be administratively burdensome and prohibitively costly; and given that the failure rate is less than 0.03 percent, contends that such insurance is unnecessary.

Leonard Bailin, Attorney, New York, N.Y.—Asserts that the plan termination insurance provisions are so extensive as to be difficult to administer. Suggests that the program be commenced only for corporations employing more than 20 or 25 persons—at least until the insurance program is well established.

Keith Anderson, Arvada, Colorado.—Approves of plan termination insurance provision to guarantee all vested ancillary benefits.

South New Jersey Chamber of Commerce, David Taylor, President.—Believes that the difficulties in administering and establishing a sensible insurance program outweigh any benefits to be gained from such a program. Sees major problems for the termination program, the inevitability of Government regulation of pension plan standards if the Government is to insure such plans, and the probability that employer residual liability for insured deficits will be a powerful deterrent against the establishment of new pensions.

Anthony Guntermann, Attorney, Santa Barbara, California.—Recognizes that there has been some abuses in pension plan administration, but maintains that the statistics do not justify establishing a head tax and a new Federal bureaucracy to collect premiums and administer a Government termination insurance program. Argues that provisions for greater liability exposure on the part of those involved in administering employment retirement plans would be a far better provision than plan termination insurance.

Thomas Mitchell, Midland Mutual Life Insurance Co., Columbus, Ohio.—Agrees in principle to the need for plan termination insurance, but feels that the burden of additional insurance costs should not be placed on plans which are adequately protected by the minimum funding standards.

Philip H. Weber, Weber Financial Inc., Fresno, California.—Disagrees strongly with the claimed need for plan termination insurance, in light of the adequate safeguards built into the funding requirements of H.R. 4200.

Barry M. Kuhl, Omaha, Nebraska.—Argues that a termination insurance plan will serve as a counter incentive to proper funding. Also asserts that the uniform charge for insurance coverage is inequitable to companies who conscientiously fund their plans.

G. Fiduciary Standards

AFL–CIO, Andrew J. Biemiller, Director, Department of Legislation.—Concurs in the "prudent man" rule contained in H.R. 4200. Points out that the bill delegates substantial investigatory power to the Secretary of Labor. Recommends that this broad investigatory authority be specifically restricted to situations where the Secretary has reasonable cause to believe that the law has been violated, thus eliminating the possibility of "fishing expeditions". Prefers the list of disqualifying offenses in H.R. 2 as opposed to those in section 507 of H.R. 4200.

Investment Council Association of America, Ramsay D. Potts, Counsel.—Considers the 5-percent excise tax on fiduciaries to be a severe sanction. Maintains that they should be applied only in clear cases of intentional violation of the legislative provisions. Points out that the definition of "party in interest" is different for the Welfare and Pension Plans Disclosure Act from that to be included in the Internal Revenue Code by H.R. 4200. Believes that managers of a plan should be protected in following "specific instructions" in the governing instrument as long as they do not run afoul of the specific prohibition rules. Supports provisions which would limit personal liability for losses to those who participate in a prohibited transaction with knowledge.

Container Corporation of America, R. C. Bittenbender, Senior Vice President.—Objects to the provisions which prohibit qualified pension plans from investing in securities of the employer as too restrictive. Believes that there should be no restriction on the purchase of employer securities by profit sharing and stock bonus plans, provided the securities are listed.

Monsanto Company, St. Louis, Missouri, W. B. Daume, Director, Corporate Personnel Department.—Feels that a "prudent man rule" will impose a high degree of fiduciary responsibility in administration of pension plans, without the necessity of specifically prohibiting certain transactions.

Profit Sharing Council of America, Hawaii Chapter, Robert R. Midikiff, Vice President.—Directs attention to the press release of the Senate Finance Committee which stated that the Committee had accepted an amendment to S. 1179 to permit profit-sharing plans to purchase real property and lease this property back to the company. Notes that under the current proposals only 7 percent of the plan funds may be invested in securities of the employer unless the profit sharing plan explicitly provides otherwise. Points out that a lease to an employer is defined as a security for purposes of the subparargraph, and suggests that the ambiguity between the press release language and the language of the statute be clarified by the simple statement that profit sharing plans will be able to purchase real property and lease it to the employer. Cities numerous examples of pension plans in Hawaii which have invested in the real estate of their employer with substantial benefits to the pension plan.

Indicates that while section 522(b) provides for leasing of real property by a *pension* plan, it provides no exception for profit sharing plans. Feels that this oversight should be corrected.

The American Bankers Association.—Supports the fiduciary standards and prohibited transactions of H.R. 2, but states that if the provisions of H.R. 4200 are adopted, uniformity should be established between the labor sections and the tax sections governing prohibited transactions and exceptions.

The First National Bank of Chicago, William K. Stevens, Vice President.—Recommends that the definition of "fiduciary" should be broadened to include investment counselors.

Calls attention to the fact that there are many profit-sharing, stock bonus plan, and thrift and savings plans which require that company stock be purchased. Notes that some of the companies which have established such plans have not reached the point in their development where their securities meet the test of the "prudent man" rule. Urges that a trustee be given some protection in purchasing securities of the employer company which the trust agreement provides that he must. Observes that there will be no compelling reason for requiring the securities in such plans to meet the tests of the "prudent man" rule, particularly since the employee would be on notice that the fund is to be invested largely or entirely in the companies' securities.

Supports a provision in the pension reform bill which would make it clear that if certain duties are allocated to one of multiple fiduciaries, then the other fiduciaries should be relieved of liability for those duties by the bill itself.

Points out that section 16(a) of H.R. 4200 could put a corporate fiduciary or insurance carrier completely out of the retirement fund business possibly through the fault of a single employee who is convicted of the specified crimes in that section. Feels that this is too harsh a penalty. Maintains that banks, trust companies, and insurance carriers which are subject to Federal or State regulations should be excluded from the definition of "person" for purposes of section 16(a).

Bangert & Co., Inc., San Francisco, California, Louis O. Kelso, General Counsel.—Points out that the prohibited transaction sections of H.R. 4200 contain no exemptions for the purchase of employer securities by a stock bonus plan from the employer or from a 10 percent or more stockholder, or for the guarantee by the employer or other party in interest of loans to a stock bonus plan. Argues that the failure to provide such exemption effectively defeats the purpose of a stock bonus plan. Urges that exemptions for the above transactions by stock bonus plans, as originally proposed in S. 1179, be reinserted in H.R. 4200.

Daniel I. Halperin, University of Pennsylvania Law School.—Views investments in employer securities as similar to unfunded plans to the extent of that investment. Believes there is no reason to allow profit sharing plans to invest in employer securities without limit.

Ehmann, Olsen & Lane, Attorneys, Phoenix, Arizona.—Recommend that the prohibited financial transaction restrictions in the pension reform legislation be relaxed to allow for secured loans and leases from the pension trust to the employer. Express approval of present law which permits a pension or profit-sharing trust to lend money or lease property to the employer corporation, providing that there is an adequate consideration and adequate security for the trust.

Thomas Hale Boggs, Jr., Attorney, Washington, D.C.—Views the present bill as ambiguous on the question of the right of brokers and other money managers to perform multiple services on behalf of a pension fund. Believes such persons should be able to perform multiple services including both management and brokerage services, and that this position should be stated clearly in the legislation. States that if, however, the present ambiguous position is retained, then provisions for administrative exemptions and for a three-year phase-in period before the prohibition becomes effective should be included.

Southern States Industrial Council.—Sees no need for additional funding or fiduciary standards. Asserts adequate fiduciary standards are enforced by the Internal Revenue Service.

Harris Trust and Savings Bank, Chicago, Illinois, C. J. Hambleton, President.—Prefers the definitions of prohibited transactions and the disclosure provisions of H.R. 2 over the language of H.R. 4200. Notes also, that H.R. 4200 contains different definitions of a party in interest which should be clarified.

Patricia B. Kowitz, Attorney, Palo Alto, California.—Opposes the "prohibited transactions" provisions of H.R. 4200 because they restrict the investment management of the millions of dollars contributed into the closed corporation pension plans to large brokerage houses and numerous banks and finance companies. Maintains that the proposed "prohibited transactions" rules would create a captive clientele for the large institutional investors and brokerage houses.

Ronald L. Ludwig, Professor, Georgetown University Law Center.—Objects to the provisions of H.R. 4200 creating obstacles for stock bonus plan acquision of employer securities. Feels that incentives for stock ownerships should be encouraged as superior to the traditional pension plans.

Mario Leo, Vice President-Research, Towers, Perrin, Forster & Crosby, Inc., Philadelphia, Pennsylvania.—Opposes any limit on the amount of corporation's securities which can be purchased by that corporation's pension trust. Argues that if any limitation must be imposed it should be no less than 20 percent and that existing security holdings should not be required to be sold.

M. John Lippman, Newport Beach, California.—Desires the bill to include a provision allowing "earmarked" trust accounts for individual participants under which a separate trust account is established and the participant directs his own investments from that account. States that with such a provision the prudent man rule should not apply nor should the 7-percent limitation on the purchase of the stock of the employer.

Louis H. Diamond, Attorney, Washington, D.C.—Objects to the prohibited transaction provisions of H.R. 4200 as inflexible in presuming bad faith even in arm's-length transactions which can be of net benefit to the trust involved. Believes that provisions of H.R. 10489 and H.R. 2 are more flexible. Proposes that arrangements whereby pension trusts own real estate leased to the employer can be entered into if they can meet a strong arm's-length requirement.

Robert F. Spindell, Attorney, Chicago, Illinois.—Favors the provisions of H.R. 4200 that deal with restrictions on trust investments and increases in fiduciary obligations.

Genesco, Inc., Nashville, Tennessee, F. M. Jarmen, Chairman.—Opposes the 7-percent limitation upon investment of pension assets and employer-related securities or properties. Feels that this limit should certainly be not less than 20 percent.

California Bankers Association, John W. Kesner, Chairman, Committee on Employee Benefit Trusts.—Supports defined fiduciary standards provisions that are consistent with the traditional law of trusts, as well as prohibited transaction provisions which provide clear guidance for fiduciaries and parties in interest.

Laurence G. Bodkin, Jr., Attorney, New York, N.Y.—Believes the bill goes too far in prohibiting sales or exchanges between the trust and the employer. Views these provisions on prohibited transactions as following the pattern of private foundation provisions which are cumbersome and unwieldy. Maintains that similar provisions need not be applied wholesale to pension trusts.

Opposes the excise fee for the expense of enforcement since it requires employers with sound pension plans to pay for the audits of their own plans. Asks that the provision that the Tax Court review any refusals to issue termination letters be dropped. Feels that such disputes are better resolved in the national IRS office rather than in a court which exists to hear adversary proceedings.

Roland M. Attenborough, Vice President, Specialized Corporate Services, Los Angeles, California.—Urges that the provisions regarding prohibited transactions include exceptions for guaranteed loans, stock bonus plans, and profit sharing plans as originally provided in section 551(b) of S. 1179. Contends that these exceptions are necessary to the operation of such plans. Favors, also, as exceptions to the prohibited transaction category loans from the employer company to the trust for the purpose of buying company stock and extension of credit from "50-percent-or-more shareholders" by the trust whereby the trust acquires stock from such shareholders.

National Association of Food Chains, Clarence G. Adamy, President.—Indicates that legislation should not prevent a plan from investing in the employer's stock or in property purchased from the employer for not more than adequate consideration and leased to the employer for full consideration.

Professor William Withers, Dept. of Economics, Queens College of the City University of New York.—Favors the S. 4 approach of the "prudent man" rule and the limitation of investment funds to no more than 10 percent in an employer's own securities.

C. R. Morgan, Treasurer, National Gypsum Company.—Asks that the Senate Committee report statement that a divestiture of company stock held on August 31, 1973 would not be required be explicitly stated in the legislation to avoid any possible problems.

South New Jersey Chamber of Commerce, David Taylor, President.—Believes that strong enforceable fiduciary standards would be aided by IRS administration and expansion of the Internal Revenue Code in the area of "prohibited transactions" for trusts. States that establishing a separate bureau for this purpose would be undesirable.

Joseph A. Dee, Brooks Camera, Inc., San Francisco, California.—Voices opposition to the prohibited transactions sections of H.R. 4200 because they contain no exemption for the purchase of employers' securities by a stock bonus plan or for the guarantee by the employer or other party in interest of loans to stock bonus plans for the purchase of employers' securities. Maintains that this change arbitrarily and inequitably defeats the efficient acquisition of company stock by employees covered by such plans. Urges that the substance of H.R. 8590, designed to facilitate stock bonus plan financing, be added to the new retirement income security bill.

Herbert S. Kurshan, Halmode Apparel, Inc., Roanoke, Virginia.—Opposes the prohibited transactions sections of H.R. 4200 because they contain no exemption for the purchase of employers' securities by a stock bonus plan, or for the guarantee by the employer or other party in interest of loans to stock bonus plans for the purchase of employers' securities. Urges that H.R. 8590 be added to H.R. 4200 to facilitate stock bonus plan financing.

Philip H. Weber, Weber Financial, Inc., Fresno, California.—Opposes fiduciary investment restrictions which would prevent small businesses from issuing well-collateralized notes rather than cash when seasonal conditions demand, and which prevent investment in stock of the employer when such stock is not publicly traded or readily marketable.

A. Ross Meeker, Jr., A. R. Meeker Co., Springfield, New Jersey.—Believes that the provision limiting investments in employer stock by pension plans to 7 percent of assets is too restrictive. Recommends that a limitation of about 25 percent be considered.

H. Reporting and Disclosure

Joint Committee on Pensions, Richard J. Backe, Chairman.—Supports the provision to require the Secretary of Labor to undertake a study to determine the sufficiency of the bill "as applied to high-mobility employees" and to recommend "such changes . . . as may be appropriate to afford to such employees adequate protection against unreasonable forfeiture of pension credits as a result of frequent job changes inherent in the conduct of their occupations or professions."

C. R. Morgan, Treasurer, National Gypsum Company.—Objects to making information filed for plan approval public since confidential information relative to employees is part of the application.

R. W. Robinson, President, R. W. Robinson & Associates Co., South Holland, Illinois.—Opposes the proposal for making public any payroll information. Feels that such information if disclosed would cause strained relations among employees.

South New Jersey Chamber of Commerce, David Taylor, President.—Asserts that present reporting requirements of the Labor Department and the IRS are quite comprehensive. Argues that more stringent reporting disclosure would result in prohibitive expenses for most plans, and would create an avalanche of paper work for the Labor Department.

American Institute of Certified Public Accountants, Leroy Layton, President.—Feels that the disclosure requirements of section 502 of H.R. 4200 are unworkable. Urges the adoption of disclosure requirements contained in section 104 of H.R. 2.

G. L. Deal, Vice President, The Timken Company, Canton, Ohio.—Objects to the provisions of section 706(k) of H.R. 4200 which would require public disclosure of detailed information on the compensation of the 25 highest paid participants in pension and profit sharing plans.

J. Frederick Bitzer, Deputy Commissioner, Insurance Department, State of Connecticut.—Requests that the committee seriously consider retaining exemption of smaller plans from many of the reporting requirements of the pension reform bill. Claims that for smaller employers the disclosure requirements of the bill would be disproportionately expensive and burdensome. Estimates that the elimination of the exemption of employers with 25 or fewer employees from filing under the existing Welfare Pension Plans Disclosure Act will triple or quadruple the number of employers filing detailed reports. Contends that the vast majority of smaller plans will continue to receive local supervision by individual States, but feels that multistate plans should not be excluded from Federal regulation and reporting requirements because many such plans are not included within the regulatory acts of individual States.

United Steel Workers of America, I. W. Abel, President.—Favors the provisions of section 151 of H.R. 4200 which require every plan administrator to file with the Secretary of Treasury the names and taxpayer numbers of all individuals who, during a plan year, have become entitled to deferred, vested benefits under the plan and to furnish each such individual the information required to be sent with respect to him to the Secretary of the Treasury. Urges, however, that section 151 be amended to provide mandatory instead of voluntary reporting for plan years ending before January 1, 1974, and to authorize the Secretary of the Treasury to promulgate regulations governing scheduling of completion of such reporting. Requests provisions prescribing a procedure by which individuals may correct errors and omissions in the reports of their employers, and to direct the Secretary of HEW to investigate a participant's complaint that his record is incorrect on presentation of reasonable grounds for his allegation.

The National Association of Life and Advanced Life Underwriters, Charles T. Kingston, Jr.—Approves of the provision for simplified reporting for plans covering less than 100 participants and which maintain an employee benefit fund of less $100,000. Suggests that the $100,000 asset limitation be increased to the range of $500,000. Believes that many small plans including some with under 25 participants will have over $100,000 in assets and thus without a change will be subject to extensive reporting requirements.

M. John Lippman, Newport Beach, California.—Recommends that the disclosure requirements apply to all qualified retirement plans regardless of the number of participants and thus apply to firms with fewer than 26 employees. States that the preponderance of numbers of plans in the country are from companies with small numbers of employees and that these employees should be assured of the same protection as other employees.

Southern States Industrial Council.—Does not object to disclosure regulations which are reasonable and which do not place increased power in the hands of the Secretary of Labor.

R. B. Cole, Vice President and Treasurer, E. I. duPont deNemours and Company, Wilmington, Delaware.—Objects to the extremely detailed investment disclosures required by H.R. 4200. Believes that the benefits of this disclosure will be worth much less than the mountains of paper work that would be required by it. Worries that the glare of public scrutiny will force administrators with below average investment performances to assume unwarranted investment risks.

Columbia Gas System.—Complains that the detail, and in most cases administrative overhead entailed by many of the provisions, will add significantly to the cost of administering private pension plans and cannot help but discourage the creation of new plans. States that the additional costs that are loaded on business are a factor in current inflation and are harmful to this country's ability to compete worldwide.

Robert F. Spindell, Attorney, Chicago, Illinois.—Opposes the provisions of the pension reform bill which would require that all information and all documents relating an application for approval of a pension and profit sharing plan must be open to public inspection. Contrasts that provision with the potential prosecution of a revenue agent for disclosing information about an executive's compensation.

All Steel, Inc., Aurora, Illinois, E.W. Johnson, Treasurer.—Objects to the disclosure element of H.R. 4200, which requires participating companies to publish salaries of individuals.

American Telephone and Telegraph Company.—Opposes the excessive disclosure requirements of H.R. 4200, because they require detailed information as to each separate transaction which would literally require thousands of pages of reports and would not serve any purpose of the act. Cites as an example of excessive reporting requirements the burden to furnish a detailed listing of commissions on securities traded.

Caterpillar Tractor Company, Peoria, Illinois, W. H. Franklin, Chairman of the Board.—Urges deletion of provisions in section 706 (k) of H.R. 4200 which would require that any application for qualification of a pension, profit sharing or stock bonus plan, together with any papers submitted in support of such application, must be open to inspection. Objects on the ground that these papers include normally confidential data relating to an individual's compensation, age, and other employee data, as well as data relating to the employer.

Container Corporation of America, R. C. Bittenbender, Senior Vice President.—Contends that the submission of information regarding the total payroll of a corporation and the compensation of its 25 highest paid employees for public inspection is unnessary and unreasonable.

R. M. Marvin, Vice President, Precision Cast Parts Corp., Portland, Oregon.—Expresses concern that the provisions of the bill increasing reporting requirements to Federal agencies could become very onerous. States that the pension plan of his corporation is uniquely liberal and is frequently discussed with employees of the corporation. Expresses concern that the administrative provisions could become so harmful to employers or proprietors that some very good plans may have to be abandoned.

Teachers Insurance and Annuity Association of America—College Retirement Equities Fund.—Suggests that section 115(a) of H.R. 4200 be amended to allow the Secretary of the Treasury to eliminate the reporting requirements not necessary to implement the purposes of this subsection, thereby preventing an unnecessary increase in administrative costs for the employer and the Government.

H. W. Lochner, Inc., Chicago, Illinois, Harry W. Lochner, Jr., President.—Objects to the requirement that salary information on the 25 highest paid employees be available to public inspection because it would be disruptive to orderly administration to have this kind of salary information available to the employees.

Jerry L. Oppenheimer, Attorney, Chicago, Illinois.—Objects to the requirement that all applications with respect to initial or continuing qualification of a plan be open for public inspection. States that since presently the Treasury Department requires a corporation in its applications to list the compensation of its 25 highest paid employees who are participants in a plan, these names would become public knowledge. Argues that such disclosure does not aid individual beneficiaries and participants in enforcing their plan rights and may induce many corporations to drop existing plans or refuse to establish new plans.

Martin E. Segal Company, New York, N.Y.—Objects to the reporting requirement that a plan disclose annually the ratio of the market value of its assets to the present value of all of its liabilities. Argues that market value fluctuates considerably from year to year and thus can produce a distorted ratio which can become a cause of substantial controversy, particularly for multiemployer labor-management funds.

Calls for modification of the requirement that starting in 1974 plans report to a Federal bureau the identification and status of each terminated employee who has vested rights. Believes that multiemployer plans and public employee plans frequently do not know precisely who is vested, thus making this requirement impossible for many of them. Suggests that extensions and some exceptions be granted when warranted.

Trustees of the Western Conference of Teamsters Pension Trust, T. N. McNamara, Counsel.—Maintains that the provision of section 151(f) of H.R. 4200 requiring a certificate of benefits to be furnished to the individual employee is impractical as applied to many multiemployer plans, where home addresses are not carried on the plan's records. Suggests that provision be made for forwarding such certificates through the Social Security Administration at no charge to multiemployer plans.

Robert M. Leventhal, Chairman, Legislative Committee, Council of Engineers and Scientists Organizations.—Proposes that each plan participant, upon commencement of participation in the plan, be given a written summary of the grounds upon which a plan participant can fail to vest, or suffer some reduction in benefits.

Harry M. Zekind, Attorney, St. Louis, Missouri.—Feels that it is unrealistic and unnecessarily burdensome to require actuarial reports involving small pension and profit sharing plans of perhaps 50 or less. States that actuarial assumptions as to probability of death in "50-life" case could vary substantially from assumptions involving hundreds of thousands of people.

United Bank of Denver.—Urges that careful consideration be given to the reporting requirements in prohibitive transaction areas of the House Education and Labor Committee pension bill, whose provisions are less burdensome and more feasible than the corresponding provisions in H.R. 4200.

I. Administration and Enforcement

Honorable Marvin L. Esch, Member of Congress, Michigan.—Is concerned that H.R. 4200 does not address itself adequately to the procedures for administrative and judicial review if a participant's pension rights have been violated. Questions the logic of separating the administration of the pension program among three agencies. Recommends that a separate pension security administration be established to carry out all the provisions of the bill. Urges that the individual participant have the right to appeal to the Secretary and to the Courts at any time he feels his rights have been violated, and that the Secretary of the pension security administration be given authority to go to court on behalf of a participant when he determines that that participant has been wronged.

Suggests the provision of a wide variety of administrative and legal sanctions to be used by the Secretary to punish an offending fiduciary or corporation. Recommends a provision for a unique pension security number to be assigned to each plan participant. Proposes the establishment of a bureau of pension statistics which would operate independent of any existing department and would be directed to acquire, process and distribute statistical information on pension and retirement security plans and conduct thorough ongoing studies of the operation of whatever pension reform legislation is passed by the Congress.

Honorable Ancher Nelsen, Member of Congress, Minnesota.—Supports the highest reasonable fiduciary standards, but objects to the language of H.R. 4200 which would give the Secretary of Labor the authority to conduct investigations at his discretion. Urges the addition of language which would make it clear that he must have some substantial reason to believe that a plan needs investigation before he proceeds.

Suggests the establishment of a Federal commission on pension coverage to report to the executive and legislative branches, with recommendations for the continued expansion of pension coverage and for the improvement of the regulatory standards applying to pension and profit sharing plans.

AFL–CIO, Andrew J. Biemiller, Director, Department of Legislation.—Opposes strongly any pension reform proposal that places the main responsibility for administration in any Department other than the Department of Labor. Maintains that the administrative discretion necessary to implement the bill requires that it be administered by agencies which are sensitive to labor-management relations and the economic position of different industries.

Contrasts the mandate of the Treasury Department to maximize the revenue and its consequential narrow construction of exemptions, exclusions, and deductions from tax obligations, with the goal of the bill to protect the rights of beneficiaries to their pensions upon retirement. Concurs that traditional tax incentives and penalties are important to make pension reform work, but believes that the aim of the legislation will not be achieved without a full complement of sanctions, remedies, active regulatory supervision, and the authority to obtain a court order to enforce compliance.

Blue Bell, Inc., Greensboro, North Carolina, E. A. Morris, Chairman of the Board.—Contends that the Treasury Department is the logical place for administration of the legislation. States that establishing additional agencies in the Department of Labor is not only expensive but undesirable due to a lack of experience and expertise in pension plan qualifications.

Profit Sharing Council of America, L. L. O'Connor, President.—Criticizes the provisions of H.R. 4200 which would grant employees the right to intervene in any request by an employer for a determination letter, or in a Tax Court declaratory judgment. Contends that the provision would allow dissident and disgruntled employees to harass their employer by asserting that a plan is discriminatory against them. Urges removal of these provisions allowing intervention by employees.

Tax Committee of the American Textile Manufacturers Institute.—Believes that the provisions allowing employees to intervene in cases in which employers seek determination letters from the IRS on plans and amendments should be deleted. Sees such intervention as potentially leading to obstruction, confusion and delay and thus resulting in discouraging employers from seeking determination letters.

Professor William Withers, Department of Economics, Queens College of the City University of New York.—Recommends giving the administrative responsibility to the Labor Department as in S. 4. Indicates that the S. 1179 provisions to divide authority between the Treasury, Commerce and Labor Departments and establish a new separate organization in the IRS are undesirable because it would: (1) make it difficult for the Labor Department to obtain information needed to maintain standards; (2) result in overemphasis on the tax deduction and fund investment aspects of pension funds; and (3) create unnecessarily complicated administrative machinery with delays, excessive personnel, involved procedures, and inter-departmental conflicts.

Ernest J. E. Griffes, National Committee on Compensation and Benefits.—Urges that the provision assessing a one dollar per participant annual charge to pay administrative costs be deleted entirely and that the complete administration of the legislation be placed under one agency, preferably the Internal Revenue Service. Asserts that shared responsibilities will lead to a bureaucratic nightmare and will discourage pension growth.

National Retail Merchants Association, James R. Williams, President.—Questions the appropriateness of a $1 per plan excise tax. Believes this discriminates against pension funds since individual taxpayers are not required to directly bear the cost of auditing individual returns.

Michael Anton, Beverly Hills, California.—Approves of the provision permitting declaratory relief in the Tax Court after negative response from the Internal Revenue Service or after 270 days, but suggests that this 270-day period be lowered to 180 days to be more consistent with the 6-month refund procedure. Also suggests that the Internal Revenue Service be permitted to waive the 180-day waiting period in cases warranting such treatment. States that the 100-percent excise tax penalty for failing to contribute to pension plan is an excellent provision in that the excise tax revenues are contributed to the plan or are aavilable for such contribution.

J. C. Perkins, Vice President, Shell Oil Company.—Believes the pension provisions should be centralized in the Treasury Department, and not split between the Treasury and the Labor Departments, to avoid a complex and confusing division of responsibilities. Argues that the $1.00 "head tax" is inappropriate in that enforcement costs usually are paid from general revenues.

Ian K. Lamberton, Financial Executives Institute, New York City.—Endorses the use of the Department of Treasury to administer the vesting and funding provisions. Urges that an even clearer delineation of responsibility between the Departments of Treasury and Labor be incorporated to reduce redundancy of reporting. Objects to the $1.00 per participant administrative excise charge because the administrative costs are beneficial not only to private pensioners but to society at large.

Converse Murdoch, Attorney, Wilmington, Delaware.—Urges that the provisions permitting employees to seek declaratory judgments that a plan is unqualified be deleted because it could only be used as a form of retaliation or extortion against an employer and fellow workers.

M. John Lippman, Newport Beach, California.—Believes that the legislation should explicitly define the requirements necessary to qualify as a custodian or trustee of a retirement plan rather than leaving that responsibility to the Secretary of the Treasury. Recommends that an amendment be added stating that a bank or trust company possesses the necessary qualifications to administer retirement plans.

California Bankers Association, John W. Kesner, Chairman, Committee on Employee Benefit Trusts.—Feels that the Treasury Department should be granted the enforcement power to take advantage of experience and to avoid duplication of regulation.

Martin E. Segal Company, New York, N.Y.—Argues that the present provision allowing audit or investigation when the Secretary of Treasury has "reasonable cause" to believe a violation exists should be modified to allow investigations once every five years except if there is "substantial cause" to believe a violation exists. States that this amendment would save considerable administrative cost.

Monsanto Company, St. Louis, Missouri. W. B. Daume, Director, Corporate Personnel Department.—Believes that it is essential that any new legislation be administered by the Treasury Department, which has already developed considerable expertise and capacity for analyzing and reviewing complicated actuarial and other provisions of pension plans. Opposes the imposition of a special levy or tax of any kind to finance the administration and enforcement of this bill.

American Society of Personnel Administration, Ernest J. E. Griffes.—Recommends broadening the power of the Secretary of Labor to examine the social security system and the government retirement system, in addition to the private pension system. Opposes the $1.00 per year per participant charge to be used to pay the costs of administering the pension reform bill. Urges that the administration of any legislation be placed under one agency, preferably the Internal Revenue Service.

Ben J. Kerr, Jr., Executive Trust Officer, Mercantile National Bank, Dallas, Texas.—Contends that supervision of the private pension arrangement should remain with the Treasury Department so as to avoid administrative and bureaucratic confusion which would be caused if more than one Government Department were given responsibilities under the bill.

National Senior Citizens Law Center, Los Angeles, California.—Objects strenuously to the provision permitting participants to seek Tax Court review only if they are employees at the time the suit is brought. Argues that this language excludes retirees from seeking relief in the Tax Court, and thus could deprive them of pension rights in a clearly unjust situation.

Argues that individual plan participants are at an extreme disadvantage in pursuing any claims this legislation might give them against their employer. Feels that some legal aid must be provided to such individuals at all stages of the various types of proceedings allowed under the bill.

Southern States Industrial Council.—Opposes the creation of any new agency or bureaucracy for regulation of private pensions. Believes administration should be by the Internal Revenue Service but that regulation of disclosure should remain with the Department of Labor.

Richard N. Bail, Boston, Massachusetts.—Favors the administration by the Treasury Department at least as to most aspects of the plan. But feels that administering pensions in the same office that administers exempt organizations makes little organizational sense and should not be continued merely to honor historical precedent.

J. H. Reynolds and Associates, Inc., St. Charles, Missouri.—Asserts that H.R. 4200 will kill the incentive for most small employers to establish or continue to maintain a pension fund. Feels that the administrative problems of the employer were not adequately considered in giving regulatory jurisdiction to both the Internal Revenue Service and the Labor Department. Worries about statutory delegation of discretionary authority to Internal Revenue Service in that such discretion can result in substantial delays and thus uncertainty.

International Chemical Workers' Union, Akron, Ohio, Frank D. Martino, Sec.-Treas.—Expresses strong objection to having the administration and enforcement of the pension reform bill in more than one agency. Recommends that the authority for administrating and enforcing the act should be concentrated in the Department of Labor. Feels that a divided administrative structure will only serve to weaken and complicate any attempts to regulate pension plans.

Walter B. Ingle, Woodland Hills, California.—Favors administration of pension plans by banks or insurance companies, with auditing being done by the Government.

Mario Leo, Vice President-Research, Towers, Perrin, Forster & Crosby, Inc., Philadelphia, Pennsylvania.—Estimates the substantial disclosure and audit requirements for the bill will add more paper work to the Executive Branch and will require an additional tax of at least $2 per employee per year to finance it.

W. J. Welp, Attorney, Marshalltown, Iowa.—Opposes the charge of $1.00 per covered individual to support the government bureaucracy proposed to administer the pension reform bill.

Thomas Mitchell, Midland Mutual Life Insurance Co., Columbus, Ohio.—Urges deletion of the excise tax for administration as provided in section 641, claiming that it is no more than a nuisance tax which will unnecessarily complicate small plans who must fill out the tax form.

J. Limitations on Contributions

Honorable William S. Cohen, Member of Congress, Maine.—Feels that it is unfair to equate the self-employed and the proprietary employee while leaving the executives of large corporations still unhindered as to the amounts which can be deducted and contributed for their pensions. Maintains that equating the self-employed and the proprietary employee ignores the fact that the proprietary employee is joined in the pension plan by numerous other employees in the corporation. Objects, however, to the American taxpayer underwriting deductions for pensions as large as $75,000 for corporate executives.

Honorable Strom Thurmond, United States Senator, State of South Carolina.—Indicates that it was his intent (in Senate amendment No. 506, adopted by a vote of 89–2) to remove all restrictions on "proprietary employees" from the bill.

Honorable J. Edward Roush, Member of Congress, Indiana.—Questions the provision allowing pension benefits up to $75,000 to receive favorable tax treatment. States that it is hardly justifiable to the average American to support pensions at this level but recognizes that this at least sets some limit.

Honorable Harold T. Johnson, Member of Congress, California.—Opposes the proprietary employee provisions which limit the deductible contributions of employee owners. Contends that this would create undue hardships on small businesses.

American Bar Association, Section on Taxation, K. Martin Worthy, Chairman.—States that the increase in contribution limits to $7,500 for self-employed persons is a substantial improvement over present law, but maintains that all restrictions on self-employed persons which do not exist for corporate executives should be eliminated.

Believes that all distinctions in the law based upon the form of ownership of business entity should be eliminated. Objects to those parts of the bill that restrict self-employed individuals relative to proprietary employees and that restrict proprietary employees relative to other corporate executives.

Special Committee on Retirement Benefits Legislation, American Bar Association, Brue Griswold, Chairman.—States that self-employed persons should be treated no differently than corporate employees or proprietary employees. Points out that very few law partnerships are incorporated and that most lawyers do not have the same rights as corporate employees under present law—not only in the area of pension benefits but also in the areas of hospitalization, disability income, medical insurance, and group life insurance. Argues that the only limitation should be an overall limitation on contributions to all pension plans without discriminating between corporate employees and the self-employed.

American Medical Association, Chicago, Illinois, Ernest B. Howard, Executive Vice President.—Urgest adoption of the increased annual limit for payments into a retirement system by self-employed persons, but submits that there should be equal treatment for employees of all corporations under the tax rules pertaining to pension plans. Believes that the size of the corporation is not a proper measure of the value of its employees and their contribution to the enterprise.

United States Savings and Loan League, Arthur B. Edgeworth, Washington Representative.—Approves the provisions in the Senate bill which increase allowable contributions on behalf of self-employed individuals to $7500 or 15 percent of annual earnings. Considers this provision to be a major step towards equalizing tax treatment of plans for self-employed persons with corporate plans.

The American Bankers Association.—Opposes the limitation imposed on pension benefits and deductible contributions for corporate employees, including proprietary employees.

Council of State Chambers of Commerce, Federal Finance Committee.—Urges that the pension ceiling provision (section 706(f) of H.R. 4200) be eliminated because it represents the first step in the control of compensation by Congress. Notes that existing law, in section 162 of the Code, protects against unreasonable deductions for "salaries or other compensation for services actually rendered." Criticizes the language of the limitation provisions for lack of clarity on several points, including (1) whether pension contributions related to compensation in excess of $100,000 would merely be disallowed or whether such contributions would disqualify the plan, and (2) whether the maximum pension would be $50,000 if a plan provides for benefits of 50 percent of an employee's three-year average pay.

John S. Nolan, Attorney, Washington, D.C.—Objects to the provision of the Senate bill under which contributions made through 6-percent salary reduction plans are treated as employee contributions and are no longer excludible from income by the employee. States that the effect of this provision is to make such plans subject to the $1,500 contributions limitation of the personal retirement savings plan, rather than the $7,500 limit for qualified self-employed plans. Asserts that salary reduction pension plans are used primarily by small businesses and that the provision in the Senate bill constitutes a discrimination against such businesses.

AFL–CIO, Andrew J. Biemiller, Director, Department of Legislation.—Objects strongly to provisions of H.R. 4200 which would extend the maximum amount of tax-free contributions of self-employed persons and employees not covered by employer pension plans. Believes that these provisions are clearly and simply tax avoidance schemes for the prime benefit of wealthy individuals.

Cites statistics published by the Treasury Department and the Joint Committee on Internal Revenue Taxation which show that most of the tax benefit goes to individuals with incomes in excess of $20,000 per year. Points out that economic data shows that the great majority of the nation's families cannot possibly save enough to take advantage of these provisions. Urges that these provisions for still more "tax loopholes" be rejected.

Profit Sharing Council of America, L. L. O'Connor, President.—Feels that the deduction limitation provisions of sections 706(f), 702 (a)(3), and 204(a) of H.R. 4200 are ambiguous and exceedingly complex, and require considerable clarification of their effects on profit-sharing plans. Urges that they not be enacted without further study and the opportunity for public hearings.

Arkansas Bar Association, E. Chas. Eichenbaum, Chairman, Federal Legislation and Procedures Committee.—Recommends that self-employed plans and owner-manager and proprietary-employee plans be given equal treatment.

National Society of Professional Engineers, Paul H. Robbins, P.E., Executive Director.—Objects to applying the $7,500 deduction limit to "proprietary employees" as in Finance Committee version of bill. Urges retention of Senate floor amendment deleting this provision.

Empire State Mutual Life Insurance Company, Jamestown, New York.—Expresses concern over the $75,000 limitation on pensions. Feels that this limitation is contrary to the incentive way of compensation. Contends that this will be highly discriminatory to the better paid executives.

Joint Committee on Pensions, Richard J. Backe, Chairman.—Urges retention of the Senate-passed provision to remove the discriminatory limits on small proprietary corporations as contained in Finance Committee version. Supports increase in deductible contributions for self-employed to $7,500.

American Institute of Certified Public Accountants, Leroy Layton, President.—Believes that there should be no distinction between contribution deductions to plans covering self-employed persons and employees and those which cover only employees, but feels that the proposed increase in the limitations for self-employed individuals is a step in the right direction in providing greater equity than currently exists.

Pennsylvania Bar Association, Harrisburg, Pennsylvania, Frederic H. Bolton, Secretary and Executive Director.—Strongly urges support of section 704 of the Senate-passed pension reform bill which would increase the tax deductible limits allowed under qualified pension plans of self-employed individuals.

G. L. Deal, Vice President, The Timken Company, Canton, Ohio.—Opposes the $75,000 limitation placed on pension benefits that would preclude a tax deduction for the cost of providing benefits in excess of such amount. Feels that such limitation serves no beneficial purpose and only complicates salaried administration plans. Believes that if such a limit is absolutely necessary, it would be more appropriate to limit pension benefits to 80 percent of final earnings or a similar base.

Kenneth W. Murray, Manager, Command and Information Systems, General Electric Company, Sunnyvale, California.—Argues that the $75,000 limit on pensions of corporate executives will be a serious deterrent to attracting young people to enter and stay in private industry. Suggests that any limitations on private pension benefits should be set at 75 percent of the final five years' average earnings.

Leonard Bailin, Attorney, New York, N.Y.—Objects to the provision in the Senate Finance version of the bill limiting contributions on behalf of proprietary employees to $7,500 per year. States that any such limitation will lead to a reduction in the number of pension plans established, and that such provision is unconstitutional because it denies equal protection of the laws. Believes that the Senate-passed pension limit of $75,000 also defeats the aims of the standing pension programs. Maintains that some incentive for professionals to incorporate has affirmative value in encouraging professionals to improve their recordkeeping and accounting practices and in providing pension benefits for all employees.

Sears, Roebuck and Co., Chicago, Illinois, Raymond P. Bilger, General Manager, Tax Department.—States that H.R. 4200 as passed by the Senate will have a very serious adverse effect on the deductibility of contributions to the Sears profit-sharing fund for many thousands of low- and high-paid employees, particularly those with long service. Complains of the difficulty of application of the rules applied to a situation where the employer maintains both a profit sharing plan and a pension plan. Submits a computation showing that employees with annual compensation substantially under $10,000 per year will be adversely affected by the 75-percent-of-compensation limitation long before retirement age. Urges that the Senate amendment making these limitations applicable to all corporate employees be deleted from the bill.

Procter and Gamble Company, Cincinnati, Ohio, James M. Ewell, Vice President.—Argues that the very nature of profit sharing plans should preclude applying contribution limitations, because they reduce the incentives for which such plans are designed and could lead to wholesale early retirements and resignation of employees wishing to move to other companies where the limitation on contributions will not be a restrictive factor for some years to come. Indicates that the proposed limitation on company contributions will hurt lower and middle income employees sooner and at least as much as it will hurt the more highly compensated employees.

Points out that section 706(f) of H.R. 4200 setting the limit on deductions for contributions is made applicable to "defined benefit plans", or "defined contribution plans". Notes further that since proposed regulation section 1.402(a)–2(b)(1) may be interpreted to include a profit sharing plan as a "defined contribution plan", section 706(f) may be interpreted to place limitations on profit sharing plans as well as pension plans. Urges, therefore, that profit sharing, stock bonus, savings, and other similar plans of public corporations be exempt from the limitations.

Standard Oil Company (Indiana), Jack M. Tharpe, Vice President-Employee Relations.—Requests that the deduction limitation of section 706(f) of H.R. 4200 be deleted for the following reasons: (1) current Code restrictions on qualified plans expressly prohibit discrimination in favor of higher paid participants; and (2) the provision discriminates in favor of an employee whose working career is with several companies as opposed to an employee who works his entire career with one company.

Caterpillar Tractor Company, Peoria, Illinois, W. H. Franklin, Chairman of the Board.—Opposes the limitation on contribution deductions in section 706(f) of H.R. 4200 because it could result in a divestiture of some benefits, and would effectively prohibit funding of promises already made. Complains that such section contains no "grandfather clause", and that it might deny deductions for increased costs resulting from pension increases for persons who retired years ago.

Tax Committee of the American Textile Manufacturers Institute.—Believes that the limitations on contributions to pension and profit-sharing funds of corporations should be removed. Asserts that distinctions should be made between profit sharing funds and pension plans since, under the bill as it now exists, an upper limit is placed on the amount which can be received in a profit sharing plan; but such a plan has no assurances on the lower limit which can be received as has a pension plan.

American Society for Personnel Administration, Ernest J. E. Griffes.—Objects to the provisions placing limitations on deductible contributions to pension plans for proprietary employees and the 75-percent limitation on all corporate employees. Reports that it is not uncommon for lower paid employees to retire with benefits well in excess of 100 percent of final pay as a result of the combination of private plan benefits and social security.

New England Life Insurance Company, Boston, Massachusetts, W. James McDonald, Vice-President and Counsel.—Opposes the limitations on contributions for proprietary employees and the 20-percent limitation on contributions under money purchase plans because these limitations do not take the age of the participant into consideration.

Eli Lilly and Company, Harold M. Wisely, Group Vice President.—Objects to the provision limiting contributions to pensions for corporate executives to an amount which would produce a pension of $75,000 per year. States that there is no justification for the limit because in the case of publicly-held corporations there is little risk that plans would be unreasonably generous and because flexibility is needed to allow pensions to be used as one aspect of compensation generally.

General Electric Company, Cecil S. Semple, Commercial Vice President.—Contends that the $75,000 benefit limit for deductible contributions would be a very serious deterrent to young people looking forward to future assignments in private enterprise. Stresses the importance of special inducements necessary to attract younger promising persons to enter and stay in private industry.

Phillips Petroleum Company, Bartlesville, Oklahoma, W. R. Thomas, Vice President.—Objects to the provisions which limit benefits, because when put together with the provision prohibiting the maintenance of the nonqualified supplemental plan, it places an absolute limit on the amount a corporation may pay its employees after retirement. Contends that this equivalent to legislating compensation limits is unprecedented and unjustified and should not be included in the bill.

American Telephone and Telegraph Company.—Criticizes the dollar limitations placed on the benefits which may be paid under tax deductible plans in view of the current inflation experience in this country.

Miles Laboratories, Inc.—Questions the rationality of selecting an arbitrary level of maximum pension benefits in view of the rising inflation and its contrary effect on stimulation of individual performance.

Monsanto Company, St. Louis, Missouri, W. B. Daume, Director, Corporate Personnel Department.—Protests the imposition of a $75,000 limit on the annual pension that a corporate officer may receive from tax deductible funds, and feels that current tax law relating to reasonable compensation and the threat of shareholder suits prevent abuses in this area.

Pension Planning Company, Inc., New York, N.Y., James Kahn, President.—Points out that section 702(a)(3) of H.R. 4200, adding subsection 401(j)(2) to the Internal Revenue Code, discriminates against thousands of employess with several years of service, whether high paid or low paid, merely because they are near retirement age at the inception of their companies' pension plans. Illustrates this discrimination with an example of the calculation of maximum benefits payable to an employee who is age 62 upon adoption of his company's pension plan, with 35 years of past service, and with a highest three-year salary average of $20,000. Reports that the maximum benefit would be only $4,500 per year, even though the employee would have 38 years of service at age 65. Believes that this inequity could be corrected by amending the last sentence of the above referred-to-provision to base the calculation on the total service of the employee, including service prior to the inception of the company's plan, rather than on the "plan participation" by the employee.

Professional Management Associates, Inc., Oak Brook, Illinois, Thomas E. Zirkle.—Objects to the requirement that funding of benefits for proprietary employees must be accomplished solely through the medium of straight life annuities, claiming that almost any impartial financial advisor would recognize that straight life annuities represent an unsatisfactory investment vehicle for most persons. Also opposes the "sinking fund" concept, which was apparently designed to extrapolate the fixed benefit asset of the "75-percent" rule to profit-sharing and money purchase plans, as expensive and complex to administer and is certain to produce a variety of inequities. Asks that all references to proprietary employees be deleted from this legislation.

Capital Review Corporation, Los Altos, California, Dale S. Carroll, President.—Maintains that the imposition of a $7,500 maximum contribution limit on small corporations favors big business leaders, Congress, and large labor union leaders, because they all have in excess of

$7,500 per year going into their own pension fund and being deducted by their employer. Sees no reason for the discrimination against small business owners.

First Investment Annuity Co. of America, Wayne, Pa., W. Thomas Kelly, President.—Objects to the imposition of a maximum on the benefits provided by or the employer contributions to an employee pension, profit sharing, or stock bonus plan. Points out that Section 162(a)(1) of the Code now provides a deduction for "reasonable compensation" and that the IRS has the authority to determine reasonableness. Fears that the imposition of this maximum might very well lead to the imposition of maximum on other areas of compensation such as salaries and wages. Argues that the limitation is particularly objectionable under a defined benefit plan funded by a variable annuity contract because the benefit received by the retired employee is not directly related to the cost of providing it. Asserts that the complexity of the limitation calculations would make it impossible to administer such a plan with any degree of conservative cost of administration.

Kenneth R. Rose, Vice-President, Aid Associates, Inc., Nashville, Tenn.—Objects to the limitation of deductible contributions for an owner-employee equal to the lesser of 15 percent of earnings or $7,500. Feels that such a limitation is unfairly discriminatory and could greatly harm the existing and future private pension plans for small incorporated businesses.

Harold Dobb, Vice-President, The United States Life Insurance Co.—Objects to the ceiling imposed concerning contributions and retirement benefits for participants other than those covered by self-employed plans. Urges the committee not to add to the bill the proposal to limit deductible contributions to all pension plans to $7,500 or 15 percent of salary.

Sergio M. Oliver, Trust Officer, First Guaranty Bank, Hammond, Louisiana.—Considers the proposed restrictions and limitations on contributions for proprietary employees to be highly discriminatory against closely-held enterprises. Asserts that these proposals will result in removing the incentives which most small businesses have in providing retirement plans for all their employees. Predicts that many plans will be terminated as a result of diminution of existing incentives.

National Association for Professional Associations and Corporations, Gainsville, Florida.—Opposes the proprietary employee provisions of H.R. 4200.

D. J. Summa, C.P.A., Arthur Young & Co., Washington, D.C.—Supports liberalization of ceiling on deductible contributions for self-employed persons from the present $2,500 to $7,500.

Ben J. Kerr, Jr., Executive Trust Officer, Mercantile National Bank, Dallas, Texas.—Recommends that if the limitations sections of the proposed pension bills are enacted at all, they should be uncomplicated so as to reduce the expense of administration of the pension plans.

Thomas R. Dean, Executive Vice-President, Dean's Custom Pension, Inc., Sullivan, Ill.—Takes exception to the provisions of H.R. 4200 which limit tax-deferred pension benefits to $75,000 annually. Compares this limitation to the pension grant of $100,000 per year for a person who is employed as President of the United States for only four years. Argues that with the current trend of inflation, $75,000 may not be very much in several years. Threatens a challenge all the way to the Supreme Court if the maximum retirement benefit is allowed to stand.

Robert H. Pickering and Associates.—Objects to the maximum of $75,000 retirement benefit for proprietary employees. Proposes, instead, a limit of $20.000 per year deductible contribution for any employee.

South New Jersey Chamber of Commerce, David Taylor, President.—Opposes the provision in the Senate Finance Committee version of the bill that would limit owner-managers of small corporations to an annual deductible contribution of $7,500.

Ernest J. E. Griffes, National Committee on Compensation and Benefits.—Objects to placing pension limits on corporate executives since their talenets contribute uniquely to the success of our economy. States that this provision discriminates in favor of lower paid employees who can often obtain benefits when combined with social security is well in excess of their final pay. Argues that the pension limit for all employees should equal 100 percent of final pay including social security payments.

Reginald H. Jones, Chairman of the Board, General Electric Company.—Believes that no limitation should be placed on the amount of pensions which are permitted for corporate executives. States that such pensions are increasingly necessary to attract able and promising younger persons to enter private industry. Feels that if some limit must be placed on the amount of pensions a better limit would be 75 percent of the employee's average earnings in his final 3 years of employment.

Michael Asimow, Professor of Law, UCLA Law School.—Strongly endorses the provision in the Senate Finance Committee bill limiting to $7.500 per year the contributions which can be made on behalf of proprietary employees of corporations. States that any larger allowable amounts gives an unnecessary subsidy to those who least need it. Asserts that this subsidy also encourages incorporation purely for tax reasons, thus violating the concept of tax neutrality.

Dr. V. L. Boersma, Holland, Michigan.—Approves the provision increasing allowable contributions for self-employed professionals. Also, favors limiting the amount of contributions for proprietary employees.

John Barnard, Jr., Senior-Vice President, Massachusetts Financial Services, Inc., Boston.—Urges that restrictions on maximum retirement benefit payments and/or maximum accumulations under fixed contribution plans, as well as limitations on contributions on behalf of participants, be eliminated from H.R. 4200. Argues that the ceiling would have many undesirable effects on the incentive offerings for highly qualified professional individuals. Points out that once full maximum benefits have been accrued and vested, an experienced and valuable employee may decide to look elsewhere for employment at a more attractive salary.

State Bar of Michigan, Carl Smith, Jr., President.—Favors the provisions of section 704 of H.R. 4200 raising the limits of the amounts which self-employed individuals may annually contribute as tax-deductible contributions to pension plans as a step in the right direction toward equal tax treatment for all professionals regardless of the entities through which they practice.

State Bar of California, Mary G. Wailes, Assistant Secretary.—Urges support of section 704 of H.R. 4200, which would allow increased tax deductible contributions to the pension plan of lawyers and other self-employed individuals.

Board of Commissioners, Idaho State Bar, Ronald L. Kull.—Endorses the provisions of H.R. 4200 with respect to increasing self-employed pension deductible contributions.

State Bar of Michigan, Carl Smith, Jr., President.—Endorses section 704 of H.R. 4200 raising the limits of the deductible contributions to the lesser of $7,500 or 15 percent of self-employed compensation.

Aetna Life Insurance Company, Hartford, Connecticut, Donald M. Johnson, President.—Opposes the 20-percent restriction on contributions to money purchase plans found in section 706 of H.R. 4200. Points out that the operative effect of this provision would be taxation to the employee of contributions in excess of 20 percent of the employee's annual earnings to a money purchase program, while the same contribution made under a fixed-benefit plan would not result in taxation to the employee. Submits that this perhaps unintentional result in patently illogical.

National Federation of Independent Business, Frederick L. Williford, Director, Government Affairs.—Believes that the self-employed and proprietary employees of closely-held corporations should be treated the same as corporate executives of major corporations. States that this equality should be accomplished not by limiting the pensions available to corporate executives but by removing the limitations for contributions on behalf of self-employed and proprietary employees. States that if some limitation is to be established the rule of 75 percent of average highest compensation up to $100,000 would be a reasonable compromise.

Pacific Power and Light Company, Portland, Oregon, Don C. Frisbee, Chairman of the Board.—Objects to the provisions in section 702 of H.R. 4200 which would cause the reduction in anticipated benefits under currently qualified plans. Counsels, also, that it is unwise in an historically inflationary economy to build a compensation ceiling into legislation. Recommends that the $50,000 per year ceiling be eliminated, or tied to an escalator, such as the cost-of-living index.

John R. Monson, Manchester, New Hampshire.—Considers the limitations on deductions for contributions to pension plans for shareholder employee to be discriminatory against small business, and believes that it should be deleted. Argues, however, that should the provision be retained, there should be added a cost-of-living provision which would allow the maximum pension to rise with the cost of living.

Martin E. Segal Company, New York, N.Y.—Objects to the $75,000 maximum benefit level because its value in real dollars will change over time. Suggests that a percentage of final compensation such as 100 percent is more appropriate.

Stuart Filler, Hofstra University, New York, N.Y.—Believes the Senate Finance bill provision setting a $7,500 maximum contribution for proprietary employees should be reinstated for those cases where proprietary employees account for more than 50 percent of the total account balances or 50 percent of the present value of accrued benefits.

Julian D. Sewell, President, National Society of Public Accountants, Washington, D.C.—Approves the provision expanding the contributions limit for self-employed persons from $2,500 to $7,500.

William R. Hinchman, Jr., Vice President. The Chase Manhattan Bank, New York, N.Y.—Opposes the limitations on tax deductions for corporate contributions to employee benefit plans. Believes that thousands of its corporate employees could be adversely affected by this provision. Also objects to the provision currently taxing cash option payments whether or not the employee chooses to take the cash. Believes this change would seriously inhibit the flexibility presently built into deferred profit sharing/cash option plans.

Thomas Elmendorf, President, California Medical Association.—Approves of the provisions to increase the limits on contributions by self-employed persons to $7,500. Opposes provisions limiting pension benefits for professional corporation members to $75,000.

Southern States Industrial Council.—Endorses the provision to allow self-employed persons to set aside up to $7,500 a year as a tax deduction for their pension. Believes that these provisions are in keeping with the American spirit of self reliance and independence.

Kenneth G. Anderson, Vice President, Celanese Corp., New York, N.Y.—Opposes the maximum $75,000 per year pension benefit limitation. Asserts that provisions of present law requiring that such pensions be reasonable in amount is a better test since the $75,000 limit ignores the impact of inflation. Also objects to any requirement that the $75,000 or 15-percent limit be applied to contributions to stock bonus plans. Believes that the provisions of present law limiting contributions to stock bonus plans to a reasonable amount not to exceed 15 percent of total compensation paid or accrued to all employees under the plan provides sufficient limitation.

Columbia Gas System.—Objects to the attempt by Congress to control salary-related benefits through use of the power to withhold tax deductions, such as the contribution deduction limitations of H.R. 4200. Feels, also, that the unknown effect of inflation on overall levels of compensation should preclude any attempt to put limitations on contribution deductions.

J. H. Reynolds and Associates, Inc., St. Charles, Missouri.—Opposes the concept of putting arbitrary limits on the amount of contributions which can be made on behalf of individual employees or the self-employed. Believes that some limits on contributions or benefits may be useful but that such limits should be set at a reasonable level such as 80 percent or 100 percent of the highest three years' compensation.

G. K. Christrup, Director, Corporate Taxes, Xerox Corporation, Stamford, Connecticut.—Objects to the limitation of contributions on behalf of any corporate employee to an amount which, when added to prior contributions and investment income and compounded at 6 percent annually to age 65, would produce straight life annuity of 75 percent of the employee's highest average salary for the three years preceding the contribution. States that this limitation is contrary to the rationale of profit sharing retirement plans which is to allow employees to participate in the success of the company and of the investments of the fund. Sees this result because if an employee has reached his maximum 75-percent annuity from past contributions then he can no longer participate in the growth of the pension fund from investments and he can no longer have the opportunity to share in future contributions to the fund unless his salary is increased.

Harris Trust and Savings Bank, Chicago, Illinois, C. J. Hambleton, President.—Questions seriously the advisability of incorporating the restrictions on benefits in view of the excessive complication of the language. Maintains that the pension community needs to have a chance to thoroughly analyze the effect of limitations on the private retirement system.

Michael A. Kulzer, Attorney, Cherry Hill, New Jersey.—Objects to requirements that the deductions necessary to fund a maximum pension must be deducted over a minimum 10-year period, because this discriminates against older people and may retard the establishment of pension plans on their behalf. Does not see how the elimination of the 10-year provision for deduction of pension contributions can result in any tax evasion.

Daniel I. Halperin, University of Pennsylvania Law School.—Believes that the $75,000 maximum allowable pension is too high and that a pension of $50,000 is high enough. Argues for a restriction on the coexistence of profit sharing plans and pension plans with the same individuals as members of both.

Ian K. Lamberton, Financial Executives Institute, New York, N.Y.—Opposes the limit on deductibility of pension costs for benefits exceeding $75,000 per year. Believes that it is discriminatory to differentiate pension costs from other forms of compensation or employee benefits.

W. F. Evans, M.S.P.A., W. F. Evans & Associates, Inc., Orangeburg, South Carolina.—Believes that H.R. 4200 does not reflect the intent of the Senate in that the floor amendments were aimed at removing all forms of discrimination against proprietary employees; contends that the present bill does not do this.

Samuel M. Sacher, President, Employers Planning Corporation of America, East Orange, N.J.—Urges the Committee not to include the limits on all self-employed and proprietary employees as was in the Finance Committee bill.

Don S. Bergquist, President, Lincoln Equipment Co., Lincoln, Nebraska.—Indicates opposition to the Finance Committee provision limiting an employee-owner who owns more than 2 percent of the corporation stock and who, in connection with other stockholder employees, receives 25 percent or more of the pension benefits to the $7,500 deductible contribution.

David L. Auer, Executive Vice President, Wyo-Ben Products, Inc., Billings, Montana.—Considers the pension benefit limit of $75,000 as more acceptable than the previous $7,500 contribution ceiling.

David N. McFarland, Administrator, Overlake Internal Medicine Associates, Bellevue, Washington.—Protests the $75,000 limit on pension benefits as ridiculously low in view of inflation.

Otto F. Schug, Chairman, Taxation Section, Indiana Bar Association.—Urges that all provisions discriminating against professional corporations in the bill be eliminated. Believes that the motivating reasons for incorporating in such cases are principally nontax and that professional corporations are already limited as to the functions they can perform.

Approves of the proposed increases in contributions on behalf of the self-employed. States that if it were not for the difficulties in separating personal assets from business assets with sole proprietors, the contributions limit for self-employed could and should be similar to that allowed for corporation.

J. C. Perkins, Vice President, Shell Oil Company.—States that the $75,000 limitation on pension benefits should be excluded from any final legislation. Believes that proprietary employees and corporate employees are in entirely different positions since corporate employees do not have the ability to divert corporate funds to their personal benefit.

American Dental Association, Louis A. Saporito, President.—Approves of the proposed higher limitation on contribuitons for the self-employed to 15 percent up to $7,500. Expresses opposition, however, to any provisions in the bill that single out proprietary emloyees for treatment dissimilar to that of corporate executives.

Reuben Gutoff, Senior Vice President, General Electric Company.—Objects to the $75,000 limit on pension benefits for corporate executives. Believes this provision has implications far beyond the small proportion of executives in that limitations on pensions available to top executives will impose similar limits on deferred compensation through the entire management organization. Feels that this will be totally counterproductive in terms of enhancing the vitality of the entrepreneurship of American industry. Contends that any legislation placing dollar limits on pensions will hurt the efficiency of leading American industries and thus strikes at the very heart of this Country's need for greater competitiveness in world markets.

Robert E. Rhue, CPA, Phoenix, Arizona.—Asserts that the limitations on deductions for contributions to private pension plan are highly discriminatory against small corporations, as compared to large corporations. Approves the increase in the deductions for contributions by self-employed individuals.

J. M. Sachs, M.D., Mount Prospect, Illinois.—Opposes the limitation on profit sharing and pension contributions by professionals to $7,500 per year, unless the same is applied the President of General Motors and other corporate executives.

United Bank of Denver.—Charges that the limitations on contribution deductions are unrealistic and will substantially limit benefits of pension plans as well as discourage companies from participating in the field.

Construction Specialties, Inc., Cranford, New Jersey, Edward C. Hallock, President.—Criticizes the provisions which place limitations on contribution deductions as extremely ambiguous, exceedingly complex, and discriminatory against proprietary employees. Believes that every one in the company should be treated equally according to their salary.

O. K. Earl Corporation, Pasadena, California, A. J. Krappman, Jr., Corporate Counsel.—Recommends strongly the total deletion of the limitation on corporate contributions which has been incorporated in H.R. 4200. Criticizes the unnecessary complication of the language establishing the limitation on deductions; and confesses that he, as an attorney, cannot understand what the words of the bill mean.

John Goddard, Lehigh Acres, Florida.—Objects to the provision in the Senate Finance Committee bill limiting deductible contributions for owner-employees to $7,500. Argues that this provision discriminates against older employees, singles out small businessmen as opposed to large corporate executives, will hinder small companies in recruiting personnel, and will remove a substantial incentive for professionals.

Paul H. Jackson, Wyatt Company, Washington, D.C.—Maintains that various limits on contributions and benefits in the bill should not be set at fixed-dollar amounts which are subject to sharp erosion over the years due to inflation. Suggests that it be set at some movable figure such as 8 times the Social Security wage base.

Genesco, Inc., Nashville, Tennessee, F. M. Jarman, Chairman.—Protests the limitation of $75,000 annual pension regardless of earnings as violating good pension plan principles.

The First National Bank of Chicago, William K. Stevens, Vice President.—Opposes any limit placed on the amounts of benefits paid to corporate employees. Maintains that, for all practical purposes, the Internal Revenue Code places adequate limitations on benefits.

Philip L. Gore, President, Security Storage Company, Washington, D.C.—Urges clarification of the confused language of sections 706(b), 702(a)(3), and 704(a) of H.R. 4200; which sets forth the method of calculating the present value of the "unfunded limitation balance".

Herman C. Biegel and John A. Cardon, Attorneys, Washington, D.C.—Objects to the pension ceiling of 75 percent of compensation for the highest three consecutive years; not considering compensation in excess of $100,000. Believe the bill does not make clear whether this limitation affects profit sharing plans, whether all plans of an individual must be aggregated in applying the test, whether the effect of the provision is to disallow a deduction for the excess benefit, or whether the provision is a requirement for qualification of the plan.

See no reason why retirement income should be singled out for limitation when other aspects of employee compensation, such as salary bonuses, insurance and so forth are subject only to the limit of reasonability. Argue that, in any case, imposing the $75,000 limit on stock bonus and profit sharing plans is absolutely indefensible since the purpose of such plans is to permit employees to receive at retirement whatever gain has been realized from the investment of his share of the contribution. State that the same objection is equally applicable to money purchase plans.

Donald C. Dahlgren, Attorney, Seattle, Washington.—Opposes any benefit limit, but recognizes that one may be forthcoming; and suggests that it would be much more logical to increase the benefit limit to 100 percent of the highest three or five years' earnings. Believes that the ten-year minimum funding period unnecessarily discriminates against older people. Requests clarification that the benefit limit specified in the bill is a maximum benefit *per year*, as opposed to the total maximum fund an employee could accumulate.

Eugene F. Roesser, C.L.U., Washington, D.C.—Urges the House to produce legislation which will result in parity between the contribution deductions allowed unincorporated and incorporated professionals. Objects to the creation of artificial entities (e.g., professional corporations) solely because of tax purposes. Calls attention to the fact that the legislation passed by the Senate will not necessarily provide an incentive to incorporate for young professionals who likely cannot contribute more than $7,500 per year into a pension fund or who because of the number of years to retirement can produce a $75,000 per year pension benefit within the limits of Keogh plans.

Argues, however, that beginning in the middle working years, the gap between the pensions available for the unincorporated and the incorporated begins to widen. Recommends that the maximum permissible percentage of income that a self-employed may contribute and deduct for a pension plan should be graded by age so that older self-employed individuals can contribute and deduct a larger percentage of income, an that the $7,500 annual limitation should be replaced by a lifetime deductible contribution limit mathematically equivalent to the $75,000 benefit limit voted by the Senate for corporate employees.

National Society of Professional Engineers.—Endorses increasing the deductible contributions allowed for self-employed persons, as well as the Senate's refusal to apply the $7,500 contribution limit to proprietary employees.

Thomas A. Davis, Attorney, Washington, D.C.—Approves the increased contribution limit for self-employed persons to $7,500 and the minimum $750 annual allowed contribution without regard to the 15-percent/$7,500 limitation. Feels that this latter provision is essential for certain individuals such as jockeys who are not now covered under existing self-employed plans. Proposes an amendment to provide that self-employed professional athletes, such as jockeys, can contribute to self-employed plans, in addition to $7,500 per year, an amount equal to the extent that during any of the past five taxable years such person contributed less than $7,500. Maintains that this proposal is essential for athletes whose income fluctuates substantially.

Louis H. Diamond, Attorney, Washington, D.C.—Opposes any limits on the size of pension benefits beyond a limit of 100 percent of highest 3 years' compensation. Believes that employers should be permitted to fund pensions based on all reasonable compensation paid so long as employees are treated equitably. Argues that any limit applied should be one that adjusts as times change. Suggests that 10 times the Social Security wage base might be an appropriate limit.

Robert L. Barnes, Actuary, Glen Ellyn, Illinois.—Objects to the limitation on pension benefits payable as arbitrary, artificial, discriminatory, as well as the fact that such limits already may be exceeded in many plans. Notes that the affect of this limitation would be to discriminate against employees who spend their entire working career with one employer, because the benefit of employees covered by more than one plan would not be so limited.

Edward H. Friend & Company, Washington, D.C.—Contends that the limitations on pension benefits in section 702(a)(3) of H.R. 4200 are unduly harsh, especially with respect to benefits commencing at age 55 where service has been substantial, and especially in view of many qualified government plans which enable retirement before age 65 at percentages of final average pay which exceed the limitations in this bill.

Proposes that, in order to account for inflation, the $100,000 limitation of sections 702(a)(3) and 706(f) of H.R. 4200 should be replaced by an amount equal to "8 times the taxable wage base under the Social Security Act."

International Home Furnishings Representatives Association, William H. Barnes, President.—Urges favorable consideration of that section of H.R. 4200 which permits self-employed individuals to contribute the lesser of 15 percent or $7,500 in tax deductible funds to qualified retirement pension plans. Feels that such legislation is essential for the benefit of self-employed individuals nearing retirement age without prospect of any substantial pensions.

Jewel Companies, Inc., Chicago, Illinois, C. E. McClellan, Tax Attorney.—Commends the goal of striving for parity between employees of large corporations and proprietary employees, but believes that the proposed method in section 706 of H.R. 4200 for achieving this objective is ambiguous and unduly complicated. Asserts that the desired objective can be much more easily obtained at much less cost to qualified plans by simply limiting the amount of contributions permitted for any one employee to 15 percent of covered compensation.

Robert F. Spindell, Attorney, Chicago, Illinois.—Objects strongly to placing a $7,500 limit on deductible contributions of stockholder employees when such persons are entitled to receive 25 percent or more of the accrued benefits under the plan. Argues that shareholder employees have not abused their privileges for pension plan deductions because the Treasury pension section has vigorously enforced the statutory requirement that contributions not discriminate in favor of stockholders, officers and highly compensated employees. Contends that this limitation diminishes the stockholder-officer's incentive to adopt a pension plan.

Curtis L. Wood, Member, Retirement Board, Rocky Mountain Motor Tariff Bureau, Inc. Employees Pension Plan, Denver, Colorado.—Feels that section 701 and 704 of H.R. 4200 make inequitable and unjustified distinctions between allowable deductions for the non-owner employee and the owner-employee.

National Retail Merchants Association, James R. Williams, President.—Objects to the imposition of the maximum limitation on the size of corporate employees' pensions and to simultaneously proposing to eliminate pay-as-you-go plans. Believes that the anti-discrimination requirements of the Internal Revenue Code presently insure the reasonableness of all compensation, including pensions.

New England Pension Services, Inc., Newton, Massachusetts, Dorothy Q. Brown, Vice President.—Feels that there are discrepancies in the bill which would render it unenforceable—e.g., the money purchase contribution paragraph, which states that 20 percent of compensation is the maximum deductible contribution. Indicates that this contradicts the provision which allows money contributions in an amount to fund up to $75,000 of maximum benefits.

Tom Klocker, Los Angeles, California, and Ray Owen, Woodland Hills, California.—Object to the differences between pension plan contributions allowed for executives of small corporations and the contributions allowed for their peers working for larger corporations. Argue that the limitations on contribution deductions are patently discriminatory against the small businessman. Assert that the proposals of H.R. 4200 are analogous to retiring military generals at the same compensation as privates.

Also oppose the proposals which would eliminate the procedure of integrating private pension plans with social security because it prevents higher paid individuals from providing for themselves at a ratio proportional to what lower paid workers receive from social security.

Dana M. Hastings, Dover, Massachusetts.—Expresses opposition to the provisions of H.R. 4200 establishing maximum pensions and/or maximum accumulations in, and contributions to, other types of retirement plans. Claims that should maximum retirement income limits be established, it is inevitable that employers will gradually reduce benefit plans once pensions for key individuals have been fully funded, or at the very least, there will be no further improvement.

Norm Thompson, Portland, Oregon.—Opposes the limitations on corporate contributions to a pension plan because they destroy an older nonshareholder member's chance of financial security. Estimates that a new pension plan member, age 55, would at age 65 receive a pension benefit of only 20 to 23 percent of his salary. Feels that the pension reform bill, as proposed, will result in a drying-up of funds from pension plans for corporate growth.

Woodward Governor Company, Rockford, Illinois, Jim Hall, Legislative Committee.—Disapproves the new limitations on deductible contributions made on behalf of all corporate employees. Feels that the new provisions are ambiguous and exceedingly complex, and that the full implications are difficult to comprehend. Contends, for example, that it is unclear as to how the limitations will be applied in situations where an employer has a pension and a profit sharing plan.

Richard N. Bail, Boston, Massachusetts.—Maintains that the special provisions aimed at the proprietary employee results in detrimental treatment to many persons besides members of professional corporations and that these persons ought to be made aware of the restrictions that may be placed on them. Interprets the bill as limiting proprietary employees more severely with respect to defined contribution plans than with respect to defined benefit plans. Sees no reason for such discrimination. Also questions why a stricter limitation should apply against proprietary employees if they are in a subchapter S corporation.

Objects to the definition of a proprietary employee which depends upon the amount of benefits accrued for proprietary employees. Feels it would be fairer if the additional restrictions were imposed only as to plans under which 25 percent of future accruals went to proprietary employees. Believes that such an approach might cause employers to voluntarily limit the extent of proprietary employee participation or to increase the amount of participation by other participants.

Sees no logic in placing an absolute dollar limit on corporate pensions. Contends that only a limit that relates to the amount of compensation earned by an individual is logical. States that in any case legislation in this regard should not be passed until those who will be adversely affected have an opportunity to be heard. Recommends that the very minimum proposed limitation should be effective only for plan years beginning after the date of enactment. Indicates that otherwise many employees will have worked for a portion of the year in expectation of benefits that cannot be provided—or else, employment contracts will be violated.

Gene R. Hill, LaGrange, Illinois.—Objects to the limit on tax deductions by corporations at the present value of "unfunded limitation balances" of each person covered by a company's profit sharing plan. Believes that new restrictions adversely affect persons in the lower pay levels.

Francis P. Ferguson, President, Northwestern Mutual Life Insurance Company, Milwaukee, Wisconsin.—Opposes placing any limitations on the amount of contributions which can be made for executive pensions. Believes that such provision will adversely affect the growth of private pensions.

John Dobson, South Bend, Indiana.—Urges Congress to co-equalize pension treatment for both the small businessman and the stockholder-employee, as compared to employees of a corporation.

Thomas L. Morrison, M.D., Salem, Oregon.—Expresses opposition to the provisions in the Senate Finance Committee's version of the bill putting restrictions on contributions for proprietary employees of professional corporations. States that such restrictions are discriminatory and that allowing added contributions is not tax evasion because tax will be paid on those contributions when they are withdrawn.

Niagara Mohawk Power Corporation.—Considers the $75,000 maximum pension to be an arbitrary figure that makes no sense. Contends that no pension maximum at all should be established, however, if one is, it should be based on a percentage of final income.

Richard C. Reed, Attorney, Seattle, Washington.—Argues against any limitations on contribution to retirement plans by self-employed persons and proprietary employees of small corporations. Believes that professional service corporations present many nontax advantages, including continuity of the life of the organization and the centralization of control over the organization. States that professionals have been discriminated against in regard to pension policies in the past and that future inequities should not be permitted.

Howard L. Sanger, Sherman Oaks, California.—Objects to provision for any ceilings on contributions or on the amount of pensions that can be granted. Believes that such ceilings will discourage private employers from adopting private pension plans. Wants unlimited contributions for both proprietary employees of corporations and for self-employed individuals.

Clifford K. Mirikitiani, M.D. Honolulu, Hawaii.—Proposes a five-year period during which proprietary employees of professional service corporations and people under self-employed plans can make unlimited contributions to their pension or profit sharing funds. States that most of these professionals have started their pensions in the recent past and thus need this extra period to build up the size of their fund.

Karen Benedetto and T. P. Votteler, Dallas, Texas.—Contend that the legislation discriminates against the small businessman in favor of large corporations. Sees no justification in limiting the pension plans of small businessmen when larger corporations do not have the same limitations.

Mrs. Shirley Schroeder, Hayward, California.—Opposes the provision in the Senate Finance Committee version of the bill placing limits on the amount of contributions on behalf of proprietary employees. Argues that this limitation is an outrageous discrimination in favor of executives of large corporations and will cause small corporations to cut back their pension plans to the detriment of all employees of small corporations.

Mrs. Loretta Monfort, Livermore, California.—Protests the provision in the Senate Finance Committee version of the bill limiting pension benefits available to proprietary employees while not limiting the benefits available to large corporation executives. Believes the provision is a discrimination against small corporations and will lead such corporations to cut back their pension funds.

Jack M. Tharpe, Vice President, Standard Oil Company (Indiana).—Objects to the $75,000 pension benefit limit. Argues that present treatment allows a reasonable noninflationary method of providing benefits without discriminating in favor of higher paid participants. Asserts that the compensation mix of corporate employees is different for employees in professional and proprietary organizations and thus different treatment is required. Maintains that the provision discriminates in favor of an employee whose working career is spent with several companies as opposed to the employee who works his entire career with one company.

John Goldmark, Attorney, Seattle, Washington.—Considers the $75,000 pension benefit limit to be a discrimination against professional people and proprietors of closely-held corporations.

Blue Bell, Inc., Greensboro, North Carolina.—Opposes the $75,000 or 75-percent limitation on retirement benefits. States that the 75-percent limitation would severely affect lower level income groups whose total benefit is diminished by inflation. Suggests that the $75,000 annual limitation should be adjusted for inflation each year. Believes that the limitation generally will encourage job changes thus creating employment instability and greatly increasing costs.

Avraam T. Kazan, M.D., Sarasota, Florida.—Objects to any limits on the size of pensions available to proprietary employees. Asserts that pension plans are the only way which professionals can save for retirement.

Joseph H. Lazara, Attorney, Los Angeles, Calif.—Opposes the limitation on deductible contributions on behalf of owner-managers of corporations. Believes that the effect of this provision will be that small business corporations will either eliminate their pension plans or limit contributions for their employees to an effective rate of 7½ percent of compensation. Feels that the result will be that the smaller business corporation will have more difficulty in retaining employees in its effort to compete with larger corporate establishments.

John Alden, A. L. Boatright, and Merle White, Klamath Falls, Oregon.—Protest the Nelson amendment to H.R. 4200 which limits the amount of company profits which can be contributed to a pension fund.

E. J. Stern, Monterey Park, Calif.—Objects to the $7,500 limit on contributions made on behalf of stockholder employees owning more than 2 percent of the stock of a corporation. Feels that the provision is patently unfair because it makes no distinction with respect to the various ages of all corporate owners. Believes that this provision will have the effect of limiting private pensions for all employees of small businesses, and not merely stockholder employees.

Abraham E. Goldminz, M.D., Carlsbad, New Mexico.—Considers the limitation that retirement benefits may not exceed $75,000 per year or 75 percent of the average of the highest 3 years earnings to be unfair in view of the Government pension benefits which now allow 80 percent. Opposes any limitation of contributions for owner-employees which discriminates against small business corporations.

Henkel and Lamon, P. C., Atlanta, Georgia, Harry V. Lamon, Jr.—Calls attention to the fact that the Senate Floor debate on the pension reform bill and the Senate roll call vote on Amendment No. 506 to S. 1179 indicated overwhelming support for eliminating all distinctions between "proprietary employees" and other corporate employees. Urges that the Ways and Means Committee delete all remaining references to the term proprietary employee that remain in the bill.

George H. Windate, Windate Addison & Associates, Akron, Ohio.—Supports the $75,000 pension benefit limit instead of the $7,500 contribution limit as applied to proprietary employees.

James L. Morris, Dallas, Texas.—Contends that limiting the annual contribution for any one individual to $7,500 annually will create havoc with many plans and will cause many small corporations to terminate their plan and result in terrific losses to employees. Argues that the limitations should be directed at the pension benefit, not the contribution, and that such limitation should apply to all pension plans but not to profit sharing plans unless there are multiple plans. Suggests that no retirement benefit be allowed which would be greater than 50 percent of the monthly salary averaged over the 10-year period preceding retirement at age 65.

Philip N. Rotgin, New York, N.Y.—Urges that all provisions of the bill discriminating between small and large businesses be eliminated. Asserts that all corporations must be treated alike.

Mrs. Marvin Ernest, Mount Prospect, Illinois.—Feels that the limitations in the Senate bill will adversely affect benefits available to office employees of professional service corporations. States that such employees are generally underpaid, and that generally the possibility of significant retirement benefits is a major incentive to accepting such employment.

Mario Leo, Vice President-Research Towers, Perrin, Foster & Crosby, Inc., Philadelphia, Pennsylvania.—Objects to provisions of the bill which place limits on proprietary employees and which limit the size of the pensions for all corporate employees. Believes that the $75,000 limit on pensions is arbitrary and unreasonable and that inflation will quickly reduce its value for an increasing number of employees. Argues that many employers presently supplement pension payments for retired employees on an "out-of-pocket" basis, and that the $75,000 limit will merely force future generations of workers to pay for such "out-of-pocket" pension costs.

Eugene L. Derlacki, M.D., Chicago, Illinois.—Opposes any discrimination against professionals and members of professional associations in comparison to executives of other corporations.

Vincent R. Larson, Seattle, Washington.—Urges support of the provision increasing the annual contributions limit for self-employed persons to $7,500 per year.

James Addison, Jr., Windate/Addison & Associates, Akron, Ohio.—Sees the $75,000 benefit limit as more equitable than the previously suggested $7,500 contribution limit.

Roy H. Woodside, Washington, D.C.—Feels that it is imperative that incorporated and unincorporated taxpayers be treated alike. Argues that the discrimination in favor of incorporated taxpayers presently in the legislation can be remedied by limiting the annual deductible contribution for both incorporated and nonincorporated taxpayers to $7,500 or $10,000 or limiting annual pension benefits for both incorporated and unincorporated taxpayers to $50,000 or $75,000.

Peter Lewicki, Seattle, Washington.—Agrees that some action should be taken to end the disparity between treatment of corporate employees and partnerships and sole proprietors, but objects to putting a $75,000 limitation on potential pension benefits. Feels that some flexible upper limit to contributions and benefits should be incorporated in the legislation which would take account both of retirees' needs and of inflation.

Russell Millsap, Woodland, California.—Objects to the provision in the Senate Finance version of the bill limiting contributions for proprietary employees to $7,500. Believes that no distinction should be made between employees of small corporations or professional corporations and employees of large corporations.

Richard Maloyan, Maloyan, Associates, Akron, Ohio.—Disapproves of the provision of the Senate Finance version of the bill limiting annual contributions on behalf of proprietary employees to $7,500. Believes such a limitation will destroy our present private pension system.

Anthony Guntermann, Attorney, Santa Barbara, California.—Favors expansion of the self-employed retirement plan benefits and the encouragement of noncovered employees to set up a retirement plan of their own. Asserts, however, that many employers have not established "Keogh" plans because the dollar cost to the employer is too great in relation to the benefit he himself may enjoy and because the provisions of such plans do not encourage employees to remain with the employer.

Feels that the provisions limiting small corporations or professional corporations to more restrictive benefits than those available to large corporate or union retirement plans are patently unfair and misdirected. Urges that the proposals to limit contributions to small corporate pension plans be dropped from any legislation.

Barry M. Kuhl, Omaha, Nebraska.—States that the imposition of $75,000 per year limitation on pension benefits is totally unsupportable since salaries reflect the value of an individual's work and only the company can judge that value.

Jeffery H. Brotman, Attorney, Seattle, Washington.—Objects to the provision in the Senate Finance version of the bill limiting the contributions on behalf of proprietary employees to $7,500 per year. Feels there is no way to distinguish between large corporations and closely-held corporations.

Philip H. Weber, Weber Financial, Inc., Fresno, California.—Feels that the contribution limitations for different groups in H.R. 4200 is an obvious discrimination of one plan against another and is hardly understandable. Argues, also, that these limitations are much too severe on older employees who are just beginning a retirement plan.

Believes that placing a dollar amount limitation on deductions to qualified plans is ludicrous in light of experience with inflation. Recommends that an individual be able to put away up to 30 percent of his earned income in any given year into a qualified trust, and that such limitations should apply to all individuals, whether they are employees, employers or owner-employees. Urges the committee to modify the self-employed provisions to allow individuals to serve as trustees for these plans because banks and insurance companies are too expensive in the case of many small plans.

James R. Gilreath, Attorney, Greenville, South Carolina.—Maintains that unless all references to distinctions between proprietary employees and employees generally are dropped from the bill and unless the provision limiting retirement benefits under corporate pensions and profit sharing plans is eliminated, then many business corporations will find it necessary to terminate or substantially reduce their retirement programs.

Thomas Mitchell, Midland Mutual Insurance Co., Columbus, Ohio.—Approves the increase in deductible contribution limitations for self-employed and partnerships to $7.500 or 15 percent of salary and the provision limiting corporate plan deductions to an amount to allow a pension of 75 percent of salary but not more than $75,000 per year.

Robert A. Gorfinkle, Attorney, South Braintree, Massachusetts.—Considers it quite unfair that owner-employees are restricted to deductible contribution limitations of $7,500 a year while corporate executives may have pension contributions considerably exceeding that amount. Asserts that many owner-employees already have employment contracts which require the corporate employer to set aside amounts greater than $7,500 per year in pension and profit sharing plans. Suggests that if any proposal is adopted placing a new ceiling on the amount that can be set aside for owner-employees, such proposal should exclude any contractual obligations geared to the 1954 Internal Revenue Code entered into prior to June 1, 1973.

Paul G. Warren, Chicago, Illinois.—Contends that the limitation on contributions for proprietary employees establishes a discriminatory situation and inhibits compensation policy by making employee stockholding undesirable. Understands that H.R. 4200 can be interpreted as doing away with discretionary formulas; and feels that it may discourage the establishment of pension plans of small companies whose profits can fluctuate widely and who hesitate to establish fixed formulas.

James B. Stubbins, Zanesville, Ohio.—Objects to the provisions of the Senate Finance version of the bill limiting allowable contributions on behalf of proprietary employees. Believes that no distinction should be made between professionals working through professional corporations and other corporate executives.

Fred E. Whisenand, McIntee & Whisenand, Williston, North Dakota.—Approves of the provisions allowing increased contributions on behalf of unincorporated self-employed individuals. Feels that no real logic exists behind a law which gives greater benefits to corporate employees than to self-employed persons.

Joseph S. Bluestein, Attorney, Birmingham, Alabama.—Rejects any separate definition of the term "proprietary employees" and any reference to that concept in the legislation. Submits that professional corporations have not abused present pension plan legislation in that few, if any, plans provide for pension benefits in excess of 100 percent of the person's average compensation.

John E. Armour, Los Angeles, California.—Objects to the provision in the Senate Finance Committee version of the bill limiting deductible contributions on behalf of proprietary employees to $7,500 per year.

Elliott I. Wyloge, M.D., Santa Fe, New Mexico.—Urges approval of the bill without introduction of any discriminatory limitation on proprietary employees.

M. D. Pittard, Toccoa, Georgia.—Praises the provisions of H.R. 4200 which increase the amount of tax deductions for contributions to a self-employed retirement plan. Feels that this type of planning is good for the country as a whole and encourages individual independence rather than encouraging dependence on the government.

John H. Schultz, J. M. Schultz Seed Co., Dieterich, Illinois.—Opposes the concept of limiting total contributions to corporate pension fund according to corporate profits. States that with a small corporation such provision would effectively force disclosure of corporate profits, which in small communities may not be desirable.

Doyle Adair, Treasurer, The Aber Co., Inc., Houston, Texas.—Objects to the provision in the Senate Finance version of the bill limiting contributions on behalf of proprietary employees to $7.500 per year. Sees no reason for discrimination between employees of small or large corporations.

Dana M. Hastings, Dover, Massachusetts.—Rejects any provision setting maximum pension benefit levels. Believes that such limits will induce employers to reduce pension benefits available for all employees after key employees have reached their maximum pension benefit level.

Otis S. Lee, M.D., Tulsa, Oklahoma.—Feels that the provision in the pension reform bill which limits the annual contribution to retirement plans to $7,500 is unfairly discriminatory against small businesses and persons who are reaching retirement age. Maintains that such provision is most inequitable in cases of persons who do not expect to be working for at least 25 years or more.

David M. Garelik, New York, N.Y.—Calls for an amendment to H.R. 4200 which would equalize the treatment of small businessmen and all other corporate employees with respect to the limitation on deductible contributions that may be made for their benefit as participants of qualified pension and profit sharing plans.

Ben Harney, Attorney, Spokane, Washington.—Feels that H.R. 4200 discriminates against shareholder employees.

R. W. Robinson, President, R. W. Robinson & Associates, South Holland, Illinois.—Disapproves of any requirement in profit sharing plans for a definite formula to determine annual employer contributions. States that with a small firm such amounts inherently change from year to year.

Robert A. Green, Group Manager, Mutual Life Insurance Company of New York, Wilkes-Barre, Pennsylvania.—Believes that the limitations on contributions and pension size for proprietary employees will severely restrict and in many cases discourage the installment of private pension plans.

Ms. K. Mitzel, San Francisco, California.—Disagrees with the provision in the Senate Finance Committee version of the bill limiting contributions on behalf of proprietary employees while not limiting contributions for executives of large corporations. Asserts that such a provision is a discrimination in favor of large corporations, and will encourage small corporations to cut back pension plans to the detriment of nonunion employees.

Glen Malley, Piedmont, California.—Objects to the provision in the Senate Finance Committee version of the bill limiting contributions on behalf of proprietary employees without any such limitation in the case of large corporate executives. Argues that such provision is a discrimination in favor of large corporations and will encourage small corporations to cut back their pension funds thus hurting nonunion office employees.

Dr. Frank di Placido, Fort Myers, Florida.—Opposes the provision in the Senate Finance Committee version of the bill limiting contributions on behalf of proprietary employees of small corporations while not limiting contributions of behalf of executives of large corporations. Believes this provision will inhibit small corporations' ability to recruit top executives. Contends that the provision is unfair to older employees since they have little time to accumulate a sizeable pension.

K. Tax Incentives for Personal Retirement Savings Plans

Honorable William S. Cohen, Member of Congress.—Commends the provisions of the pension reform bill which encourages the establishment of retirement savings by individuals not otherwise covered by qualified pension programs.

Honorable Bertram L. Podell, Member of Congress, New York.—Advocates a housewives' pension plan which redefines full time homemakers as self-employed individuals and permits them to contribute up to $25 per week to a personal pension plan.

Honorable Tom Railsback, Member of Congress, Illinois.—Approves of the concept of allowing individuals to set aside amounts of income for personal retirement accounts. Stresses that this type of provision must be incorporated in any comprehensive pension bill.

Daniel I. Halperin, University of Pennsylvania Law School.—Believes that the primary beneficiaries of this proposal will be relatively high paid workers, not the poor without present pension coverage. Suggests that contributions to the personal retirement savings plan not be allowed if the employee is a participant in the qualified plan for a section 403(b) plan or any other retirement plan maintained by the government or a tax-exempt organization.

United States Savings and Loan League, Arthur B. Edgeworth, Washington Representative.—Supports the provision allowing an individual deduction up to $1,500 for a personal retirement savings plan. Believes that the maximum contribution level could be increased to provide more parity between this savings program and the new levels for self-employed persons. Suggests that specific language be incorporated into the personal retirement savings plan provisions which will explicitly state that the funds from these plans can be invested in savings accounts with financial institutions.

Tax Committee of the American Textile Manufacturers Institute.—Believes the amount of deduction available for personal retirement savings plans should be increased to $2,500, and should be made applicable to contributions by employees who are also covered by qualified plans.

National Society of Professional Engineers, Paul H. Robbins, P.E., Executive Director.—Feels that the limits should be increased to the same level as for self-employed persons.

Joint Committee on Pensions, Richard J. Backe, Chairman.—Urges liberalization of the individual retirement deduction as follows:

(1) An "active participant" in a qualified plan should be allowed the deduction if his interest in the plan is not vested so that he is not disqualified from both.

(2) An "active participant" should not be wholly disqualified from the retirement savings account but rather have his maximum contribution to such account reduced dollar for dollar by the employer's contribution to the qualified pension plan.

(3) Increase the $1,500 limit to the maximum extent considered fiscally feasible.

Francis P. Ferguson, President, Northwestern Mutual Life Insurance Company, Milwaukee, Wisconsin.—Approves of the tax deduction for individual retirement savings plan. Recommends that the legislation make it clear that an annuity policy or appropriate insurance policy could be considered a suitable vehicle under these plans.

Richard N. Bail, Boston, Massachusetts.—Argues that the allowable deduction for retirement savings account should be higher than $1,500 a year. States that the accompanying administrative expenses are bound to be very large for a $1,500 per year deduction. Believes that the provision governing pension plans is inconsistent with the concept of individual retirement savings accounts since experience with salary reduction plans indicates they were chiefly availed of by employees in low income ranges who might not otherwise have an opportunity for savings.

C. T. Hellmuth, C.L.U., Washington, D.C.—Urges that the amount of money that an employee may voluntarily elect to save in a retirement plan on a tax deferred basis not be reduced by the amount that his employer contributes for him.

Southern States Industrial Council.—Endorses the proposal to allow individuals to set up a savings retirement plan with tax-deductible contributions up to $1,500 per year.

Bureau of Salesmen's National Associations, Marshall J. Mantler, Managing Director.—Expresses strong support in favor of enactment of H.R. 4220. Requests, however, that the Committee on Ways and Means give additional consideration to the plight of the millions of "pensionless employees." Feels that the $1,500 per year deduction allowable for contributions to a private pension plan is grossly inequitable in light of the deductions allowable for corporate employees and the self-employed. Asserts that the reason given for Senate rejection of higher limitation was the Treasury Department's claim that the Government cannot afford the revenue loss. Argues that revenue loss is not an adequate justification for singling out a particular segment of the working population to bear the burden.

Teachers Insurance and Annuity Association of America-College Retirement Equities Fund.—Quotes Senate Finance Committee Report in support of the contention that the purpose of section 219 of H.R. 4200 is to provide a deduction for individual retirement plans only when no employer-sponsored plan is available. Recommends that section 219 be amended to clearly express this intent that it apply only to employees who are not eligible to participate in plan established by the employee's employer.

Burt H. McLachlan, Kansas City, Missouri.—Asserts that it is the noncovered mobile worker who needs that tax incentives for his retirement planning. Supports the provisions which allow an employee to contribute his own funds into an approved individual plan, but believes that the $1,500 limit per year, reduced by any contributions made by the employer to a private pension plan in the employee's behalf, discriminates against the lower-paid employees. Recommends that the accumulated invested funds in an individual plan be transferrable to a new employer savings and thrift plan without taxation.

Henry V. Meyer, Denver, Colorado.—Points out that under H.R. 4200 a person participating in a company-financed pension plan with five years prior service at age 60 on January 1, 1976, could only accumulate a maximum of 50-percent vested interest prior to actual retirement at age 65. Recommends that in order to compensate for this "vested interest gap", employees nearing retirement age should be allowed to augment any employer-financed plan by making contributions to a retirement savings program and receive the same tax deferred treatment afforded professional or self-employed persons. Maintains that a $1,000 to $1,500 limitation on contributions of employees is grossly inadequate to make up the 50 percent of vested interest which these older employees can now earn under the bill.

Jerome P. Friedman, Attorney, New Haven, Connecticut.—Commends the pension reform proposals in H.R. 4200 which recognize that those who work for employers who provide no retirement plans have been inequitably excluded from pension plan tax incentives. Questions, however, why a self-employed individual netting $30,000 will be able to set aside $4,500, whereas a salaried person making $30,000 will be able to set aside only $1,500.

Edward S. Gibala, Urbana, Illinois.—Objects to the large discrepancy between the $7,500 which self-employed individuals can contribute and the $1,500 which other individuals can deduct.

L. Taxation of Lump-Sum Distributions

Stuart Filler, Hofstra University, New York, New York.—Objects to the method of computing the tax on ordinary income portions of any lump-sum distribution. Believes it results in a lower rate of tax than would apply to other increases in ordinary income. Sees difficulty in justifying such lower rate given that the taxpayer has already received a substantial tax break through the pension plans' income tax deferral.

Harris Trust and Savings Bank, Chicago, Illinois, C. J. Hambleton, President.—Endorses the revised tax treatment of lump-sum distributions as outlined in H.R. 4200.

Daniel I. Halperin, University of Pennsylvania Law School.—Believes no special averaging provision is desirable or necessary for lump-sum distributions as such distributions do not provide for retirement security and thus are contrary to the principle behind granting tax benefits for pensions.

J. C. Perkins, Vice President, Shell Oil Company.—Agrees that the lump-sum distribution provisions are an improvement over present law but that the legislation should make clear that the capital gain portion of lump-sum distributions will continue to be subject to the income averaging rules of section 1301 of the Code.

Jewel Companies, Inc., Chicago, Illinois, C. E. McClellan, Tax Attorney.—Criticizes the complexity of the post-1969 method of taxing lump-sum distributions as far outweighing any hoped-for increase in revenues. Recommends that long-term capital gain treatment of lump-sum distributions made from profit sharing plans be restored.

Eugene F. Rosser, C.L.U., Washington, D.C.—Maintains that the taxation of lump-sum distributions, the estate tax treatment under Code section 2039(c), and the gift tax exemption under code section 2517(b) should all be the same for the self-employed as for the corporate employees.

Russell Millsap, Woodland, California.—Argues that treating loans to proprietary employees as distributions subject to immediate taxation discriminates against smaller corporations as does the provision subjecting lump-sum distributions to proprietary employees to the five-year forward averaging rule rather than to the 15-year rule which will apply to regular employees.

M. Federal Preemption of State Laws

Honorable Stanley C. DuRose, Jr., Commissioner of Insurance, State of Wisconsin.—Opposes the proposed Federal preemption of State regulatory effort in this area because it will result in ineffective regulation or non-regulation, particularly with respect to the smaller funds where regulation is needed most. Feels that it is essential that Federal regulation be supplemented by State regulation because:

(1) The number of funds is too great for proper surveillance to be provided by any one government agency;

(2) Most problems in fiduciary standards regulation come from funds with the smaller number of participants;

(3) Affirmative and aggressive action is required to adequately regulate fiduciary standards; and

(4) Effective consumer protection needs to be provided at the level nearest the consumer.

Estimates that Federal authority would extend over somewhere between 150,000 and 200,000 trusts, and questions whether the Federal bureaucracy would be able to give this great number of trusts the individual attention needed to enforce the fiduciary standards. Indicates that the National Association of Insurance Commissioners is considering a proposed model act that would establish State fiduciary standards and regulation of employee pension and welfare plans and which would supplement Federal regulation. Submits suggested language for a new section 106(k) to H.R. 2 to permit States to regulate employee welfare and pension plans and funds.

C. R. Morgan, Treasurer, National Gypsum Company.—Favors Federal preemption of State law to avoid the administrative jungle of conflicting laws.

California Bankers Association, John W. Kesner, Chairman, Committee on Employee Benefit Trusts.—Recommends a provision in Federal law that will preempt any State laws affecting private pensions so that a multi-State pension plan will not be subject to potentially different regulations in each State.

South New Jersey Chamber of Commerce, David Taylor, President.—Favors Federal preemption of State regulation of pension plans to provide uniformity throughout the country.

Associated Industries of New York State, Inc., Albany, New York, Gerald A. Donahue, Director of Government Affairs.—Supports Federal preemption and exclusive jurisdiction in this area to prohibit dual Federal-State activity.

Monsanto Company, St. Louis, Missouri, W. B. Daume, Director, Corporate Personnel Department.—Favors the Federal preemption of State law on matters covered by pension reform legislation.

National Senior Citizens Law Center, Los Angeles, California.—Believes this legislation should be viewed as a minimum standard and not as a last word on pension reform; and that forward-looking States should be allowed to enact more advanced legislation.

Thomas Mitchell, Midland Mutual Life Insurance, Columbus, Ohio.—Agrees with the Federal preemption of State regulation of pension plans to avoid a nightmare of patchwork regulations for national organizations administering and establishing pension plans and for employers with operations in more than one State.

N. Other Pension-Related Provisions

Honorable Donald M. Fraser, Member of Congress, Minnesota.—Feels that the negative option for the surviving spouse to receive benefits is the best method to provide protection for the surviving spouse.

Advocates a sex discrimination amendment in the pension reform bill to protect those women who receive a smaller pension benefit because of their sex. Maintains that until such a provision specifically outlining such treatment is included in the legislation, discrimination cases will have to be declared unlawful on a case-by-case basis.

American Bar Association Special Committee on Retirement Benefits legislation, Bruce Griswald, Chairman.—Urges the elimination of Sec. 262 of H.R. 4200 which prohibits nonqualified plans, with one limited exception. Maintains that this prohibition would work hardship on retired employees and employees near the retirement age who are financially dependent upon nonqualified plans. Recommends that nonqualified plans should be continued at least for a sufficient number of years to permit the phasing-out of vested plans while benefits under a qualified plan under the new legislation are being accumulated.

American Bar Association, Section of Taxation, K. Martin Worthy, Chairman.—Believes there is no basis for continuing the special Social Security integration rule for plans in which self-employed persons participate. Considers special integration as a discrimination which should be eliminated.

Objects to the prohibition of funded unqualified plans and the curtailment of some unfunded qualified plans. States that the tax treatment of unqualified plans of deferred compensation should be further examined before legislation is enacted.

Profit Sharing Council of America, L. L. O'Connor, President.—Points out that section 706(j) of H.R. 4200 is intended to codify proposed Treasury regulations dealing with so-called 6-percent salary reduction pension plans but are not intended to affect the contributions to certain qualified profit sharing plans, where the contributed amount represents a portion of the employees' year-end bonus rather than a reduction in basic and regular compensation. Claims, however, that the language of this section is so broadly drafted that it strikes at long-standing treatment of profit sharing plans incorporating amounts represented by reduction in employees' year-end bonuses. Requests that the language be clarified so as to be consistent with the express intent of the Senate Finance Committee report and published rulings.

The Seafarers International Union, AFL–CIO, Paul Hall, President.—Recommends that the statutory definition of a multiemployer plan in section 401(a)(3) be specifically applied to all titles of the act where there are different requirements and standards for single and for multiemployer plans.

National League of Cities, Allan E. Pritchard, Jr., Executive Vice-President, and United States Conference of Mayors, John J. Gunther, Executive Director.—Urge the Ways and Means Committee to exempt State and local government pension plans from the pending pension reform legislation. Recognize that serious deficiencies may exist in many of the public plans, but believe that many of these problems are distinct from the problems in a private pension system and that the deficiencies have not been thoroughly enough analyzed to warrant the establishment of Federal standards. Recommend the creation of a special congressional task force to conduct a thorough review and evaluation of the public pension system.

The Research Institute of America, Inc., James M. Russell, Director, Washington Tax Bureau.—Reports that they have searched H.R. 4200 and the Internal Revenue Code without results for a definition of "defined benefit plan" and "defined contribution plan". Recommends a technical change in the bill which would set forth precise definitions for these terms.

United States Catholic Conference, Office of Government Liaison, James L. Robinson, Director.—Requests certain clarifications in H.R. 4200 in order to avoid misunderstandings as to how the law would affect churches and religious institutions. Asks the following questions: (1) Are institutions such as cemeteries, parochial schools, hospitals, and other charitable institutions exempt from the provisions on funding, insurance, audit excise tax, and fiduciary standards? (2) Since churches are exempt under section 262 of H.R. 4200 from the compulsory requirement of qualifying their retirement plans under section 401 of the Code, will the exempt pension plan be subject to tax penalties now imposed on unqualified pension plans? (3) Since it appears that churches are not exempt from the provisions on vesting, are they therefore subject to the "tax on accumulated vesting deficiency"?

Association of American Railroads, Gregory S. Prince, Executive Vice President.—Opposes the provisions of sections 222 and 262 of H.R. 4200, which, in effect, eliminate the use of any pension or profit sharing plan unless the full requirements of section 401 of the Code are met. Maintains that these revisions would totally eliminate the pay-as-you-go retirement and pension plans that are maintained by affluent employers. Recommends that there be limited exceptions to total prohibition of nonqualified retirement plans to permit the maintenance of nonqualified plans for at least management personnel.

Teachers Insurance and Annuity Association of America—College Retirement Equities Fund.—Expresses concern that section 262 of H.R. 4200 might be interpreted to require tax-exempt organizations to qualify their plans under code section 401, thus rendering code section 403(b) meaningless, and eliminating the historical tax treatment provided to the fully vested, fully funded and fully portable pension structure that colleges and universities have established under the substitute for qualification provided tax-exempt institutions since 1942. States that such an interpretation would also divide public and private educational institutions. Cites reports of the Senate Finance Committee to show that the Senate did not intend to eliminate the usefulness of code section 403(b). Suggests that any chance of misinterpretation should be removed by amending section 262(c) of the bill to add a specific exemption for annuity plans described in code section 403(b).

American Gas Association, George H. Lawrence, Senior Vice President, Public Affairs.—Objects to the prohibition in H.R. 4200 on the maintenance of nonqualified pension and profit-sharing plans. Points out that in the utility industry it has been necessary on occasion to make cutbacks in the number of personnel as well as early retirement, and that the utilities have been supplementing the normal early retirement pension plan with a supplemental plan which is not qualified under the Internal Revenue Code.

Credit Union National Association, Inc., W. F. Broxterman, Executive Assistant Managing Director.—Points out that H.R. 4200 excludes all Federally chartered credit unions from eligibility to act as custodians for individual retirement accounts. Urges amendment of the pension reform legislation to specifically grant authority to Federally chartered credit unions to act as custodians for individual retirement accounts.

National Coal Association, Carl E. Bagge, President.—Requests that section 404(c) of the Internal Revenue Code be retained in order to permit pension funds exempt thereunder to continue their exemption until such time as the parties are able to secure the tax qualification under section 401 of the Code.

Missouri Municipal League, Jefferson City, Missouri, Jay T. Bell, Executive Director.—Urges the committee to report a bill which completely exempts public plans because no analysis has been made of the impact of H.R. 2 and H.R. 4200 on public pensions systems. Recommends that a special task force be established to study all aspects of public pensions systems.

Kaiser Foundation Health Plan, Inc., Washington, D.C.—Opposes the attempt in H.R. 4200 to outlaw nonqualified plans of deferred compensation. Urges that section 222 and section 262 be completely deleted from the bill. Points out that qualified retirement plans can only be provided where an employer relationship exists and thus organizations such as the Kaiser Health Plan whose operation depends on the services of doctors operating as independent contractors can provide retirement benefits for the doctors only through a nonqualified arrangement. Notes that under existing laws there is no revenue loss due to nonqualified retirement plans.

Associated Industries of New York State, Inc., Albany, New York, Gerald A. Donahue, Director of Government Affairs.—Points out that section 706(j) of H.R. 4200 provides that a contribution to a qualified profit sharing plan made by an employer as a result of an employee's choice in return for a reduction in his compensation will be treated as if made by the employee, and therefore be taxable to the employee. Urges the committee to make clear that section 706(j) does not apply to profit sharing plans qualified under Revenue Ruling 56–497, Revenue Ruling 63–180, and Revenue Ruling 68–89.

Massachusetts Mutual Life Insurance Company, Springfield, Massachusetts, A. Peter Quinn, Jr., General Counsel.—Requests a grandfather clause to the provisions of section 706(j) of H.R. 4200 to prevent the imposition of a current income tax on contributions deriving from an irrevocable election made before January 1, 1973, to receive a reduced amount of compensation as a condition to an employee's participation in a qualified plan.

Miles Laboratories, Inc.—Criticizes the lack of clarity as to the scope of applicability of H.R. 4200 to forms of employee benefits other than pension. Maintains that the application to many stock purchase plans, profit sharing plans, incentive plans with deferred compensation, etc., of the vesting schedules. Federal insurance, and other requirements suitable for pensions is counterproductive to the growth and improvement of such nonpension plans.

General Electric Company, Cecil S. Semple, Commercial Vice President.—Points out that H.R. 4200 allows nonqualified pension plans for officers only, but that the earlier drafts and Senate debates had discussed the exemption in terms of select management employees. Notes that many managers in larger companies, while not holding the title of officer, have much greater responsibility than most officers in small companies. Recommends that nonqualified pension plans be permitted to cover the top management group as well as officers.

Caterpillar Tractor Company, Peoria, Illinois, W. H. Franklin, Chairman of the Board.—Opposes the automatic joint and survivor annuity of section 261(a) of H.R. 4200 because it would create, through the simple act of a post-retirement (or even death-bed) marriage, pension liabilities which did not exist when an employee retired.

Objects to the implications of sections 222 and 262 of H.R. 4200 which appear to require that all retirement plans be qualified plans. Points out that such provisions would prevent deductions to employers who pay "out-of-pocket" amounts to retirees in recognition of the inroads of inflation and without any obligation to make them. Concludes that those sections, when read in conjunction with section 706 (f), would prohibit an employer from making a nondeductible payment to an employee which, when added to his benefit from a qualified plan, exceeds 75 percent of his 3-year highest annual average of compensation.

Monsanto Company, St. Louis, Missouri, W. B. Daume, Director, Corporate Personnel Department.—Believes that sections 222 and 262, affecting or denying the use of nonqualified plans, unnecessarily restrict the total compensation packages of companies, and should be deleted.

Tennant Company, Minneapolis, Minnesota, Martin N. Kellogg, Treasurer.—Asserts that section 706(b) of H.R. 4200 is so complex that it has not been possible to obtain the full understanding of its import. Stresses that section 706(b) needs very careful consideration and deliberation with testimony encouraged from involved companies after a careful analysis of the impact and meaning of this section.

Harold M. Wisely, Group Vice President, Eli Lilly and Company.—Objects to the prohibition of nonqualified plans for businesses in interstate commerce. Believes that this provision restricts the choices available to management in attracting and holding seasoned professional and managerial talent.

Disapproves the amendments to the Federal Procurement regulations which attempt to protect pension retirement rights of certain professional and technical personnel against forefeitures resulting from job transfers or other losses associated with the change in Federal contracts, grants or procurements. Believes this provision would be extremely difficult to administer for the employer because, at least in the case of Eli Lilly & Company, no employees are assigned exclusively, or even most of their time, to work related to Government contracts. Concludes that the result would be an arbitrary discrimination between employees which could cause employee resentment.

American Academy of Actuaries, Committee on Actuarial Principles and Practices in Connection With Pension Plans.—Notes that section 261(a)(2) of the bill provides that the annuity form of benefit payable under the plan will be paid in the form of a joint and survivor annuity unless the participant elects, within two years of commencement of the benefit, not to have the benefit paid to him in such form. Objects to such provision because it does not clearly state that the joint survivor benefits are to represent an actuarial reduction of the normal lifetime benefit which the plan participant would otherwise receive, and that by making such election the cost of the normal form of benefit could be increased by at least 20 percent. Points out that it is not considered good actuarial practice to permit the election or avoidance of optional elections without reasonable notification of the benefits to be gained or lost thereby.

Reginald H. Jones, Chairman of the Board, General Electric Company.—Urges that the provision permitting nonqualified corporate plans only for corporate officers be expanded to include managers and other key personnel with great responsibility who are not officers.

Argues that the provisions requiring immediate taxation to employees of amounts involved in qualified salary reduction savings plans would impose a hardship on participants in such plans and would disrupt collective bargaining agreements. Proposes that the effective date of these provisions be delayed until current bargaining agreements expire.

National Council on Teacher Retirement, Leonard Prewitt, President.—Approves of provisions for a study of public employee plans. Objects to other provisions which extend substantive regulation to public employee and retirement systems. Sees these two provisions in conflict; and asserts that any regulatory provisions should be deleted until the study is completed.

Donald C. Lubick and David E. Manch, Attorneys, Buffalo, New York.—Express concern that the provision of the bill granting unfavorable treatment to salary reduction plans might have an adverse effect on profit sharing plans that have a cash option feature. State that contributions to profit sharing plans with a cash option might be considered to have been made in return for an employee's choice of foregoing an increase in compensation. Believe that if this happens such profit sharing plans will no longer receive favored treatment. Object to such result because profit sharing plans with a cash option feature have been a traditional, long-standing form of plan.

Jack Myers, American Counsel on Education, Washington, D.C.—Urges that pension reforms not apply to the section 403(b) annuity programs maintained by exempt organizations in public schools. Notes that Senate Finance Committee report confirms that that bill does not intend to affect tax treatment of section 403(b) plans, but feels that a clarifying amendment should be included in the legislation.

Leonard Bailin, Attorney, New York, N.Y.—Contends that requirements for actuarial certification would produce a substantial financial burden in that actuaries are very expensive. Suggests that certification by a certified public accountant be accepted.

Robert H. Pickering and Associates.—Proposes a new social security schedule for qualified plans or retirement benefits exceeding $18,000 per year. Estimates that this integration could save the Social Security Administration as much as $26 billion per year by 1986. Opposes the inclusion of pre-retirement benefits in the estate of the deceased worker. Suggests that a special class of Treasury bills be issued by the Social Security Administration for investment by the portability trust. Concludes that this would provide more monies to the general fund at far more reasonable rates and would reduce administration cost of the fund.

Clayton J. Whisman, Westerville, Ohio.—Urges the inclusion of a provision to prohibit private insurance companies from writing "offset" disability and retirement plans under which any insurance benefits are reduced by the amount of any Social Security increases. Believes that many insured workers are not familiar with these provisions and are being forced to take fixed payments even while Social Security benefits are increasing.

Herman C. Biegel and John A. Cardon, Attorneys, Washington, D.C.—Disagree with the provision that an employee be allocated the income, gains, and losses attributable to his own contributions regardless of whether he is vested. Believe that a plan should be able to provide that a stated rule of interest be given to employee contributions, thus making the share allocable to the employee contribution not dependent upon the gains or losses of the pension fund.

Express concern that the prohibitions against nonqualified pension plans will prohibit the typical nonfunded, deferred compensation plans for executives and key management employees. Believe this provision will force the employer to drop the supplemental plan rather than modify it to conform to qualification requirements, and that thus the result will be detrimental to employees. Submit that as a policy matter an employer should be allowed to pay retirement benefits on a pay-as-you-go basis as long as the employee is adequately advised of the nature of the plan and of the fact that it is unfunded.

Bruce H. Bokor, Attorney, Miami, Florida.—Requests consideration of a provision in H.R. 4200 which would allow corporations who had previously elected to be taxed as a subchapter S corporation, but who had subsequently terminated such status, to be exempt from the 5-year "wait out" for reelecting this corporate status.

Richard S. Fischer, Attorney, Rochester, New York.—Opposes the provisions of section 706(j) which threaten all cash option profit sharing plans. Notes that the proposed Treasury regulations issued on December 6, 1972, were clearly applicable only to salary reduction plans, and not to cash option profit sharing plans. Points out, however, that the broad language of section 706(j) prohibits the cash option profit sharing plans as well as salary reduction pension plans. States that, to his knowledge, cash option profit sharing plans have not caused any great problems during their active existence for the past 10 or 12 years. Recommends that the restrictions of section 706(j) be limited to pension plans as opposed to profit sharing plans, if such be the intent of the Congress.

Malcolm E. Ritsch, Jr., Attorney, Richmond, Virginia.—Objects to the prohibition against maintenance of nonqualified plans in section 262 of H.R. 4200. Argues that many small- and medium-sized employers cannot afford to cover their older employees under a qualified plan, and so they provide an unfunded plan for these employees. Believes that ruling out of the informal arangements can only hurt the employees.

Thomas Martinez, Regional Representative, National Maritime Union, Baltimore, Maryland.—Urges the addition of H.R. 8592 to the pension reform bill to assure the right of working Americans to buy stock in their companies through employee stock ownership plans.

Woodward Governor Company, Rockford, Illinois, Jim Hall, Legislative Committee.—Considers extremely unfair the taxing of all contributions to deferred plans which have any portion with a cash option available to the employee.

American Academy of Actuaries.—Approves the bill's provisions regarding enrollment and reports of actuaries. Believes that with pension plans becoming increasingly more complex it is important to have services of qualified actuaries to advise employees and employers. Believes that term "qualified actuary" used in the bill should be defined in the bill so that membership in the Academy of Actuaries is sufficient evidence of qualification.

The American Bankers Association.—Believes that annuity contract plans should be allowed to invest in bank common funds and bank savings accounts as well as in mutual funds. Urges that the language of the bill be made clear that none of an employer's contributions to a profit sharing plan is includible in an employee's gross income even when the employee has an election in advance to take a portion in cash.

Council of State Chambers of Commerce, Federal Finance Committee.—Recommends deletion of sections 222 and 262 of H.R. 4200, which severely limit the establishment or operation of unqualified retirement plans, because such plans serve as a useful means of an employer to provide incentives and to supplement retirement benefits of employees.

Aetna Life Insurance Company, Hartford, Connecticut, Donald M. Johnson, President.—Objects to the provisions of section 706(j) of H.R. 4200, which provides that contributions to a salary reduction plan shall be fully taxed as income to the employee at the time of the contribution. Stresses that prior tax law has taken account of the fact that these payments are the functional equivalent of employer contributions, and that the salary reduction pension concept is an effective way to encourage small employers to install retirement programs and for lower paid employees to save for retirement. Calls attention to the fact that each such a plan embodies all the most vital aspects of sound and admirable retirement planning—for example, uniformity, reasonable contribution limits, broad participation, and full funding.

Opposes the provisions of section 222 of H.R. 4200, which precludes certain nonofficer employees from gaining the benefits of unqualified deferred compensation plans. Disapproves section 262, which precludes certain nonemployees from gaining the benefits of nonqualified deferred compensation plans, because these sections prohibit a very useful vehicle for retirement security and are an unreasonable and undesirable restriction on these individuals' freedom to contract concerning their compensation.

Columbia Gas System.—Objects to the automatic 50-percent joint survivor annuity of H.R. 4200 because the provision is inflexible and unclear that the employee's benefit will be reduced by failure of the participant to reject the joint survivor annuity. Recommends, as an alternative, a statutory directive to the Treasury Department that a qualified plan must include reasonable provisions for a joint survivor annuity *option.*

Opposes the elimination of nonqualified plans by sections 222 and 262, because such statutory inflexibility would prevent the establishment of a plan frequently necessary to provide for employees who will not be covered by qualified plans. Asserts that any abuse of the use of nonqualified plans in conjunction with qualified plans can be adequately policed when the Treasury Department reviews plans for qualification.

Feels that a provision for the "grandfathering" of present plans and practices is an absolute necessity in order to effect an orderly transition to any proposed legislation.

G. K. Christrup, Director, Corporate Taxes, Xerox Corporation, Stamford, Connecticut.—Disapproves the prohibition, in effect, of salary reduction plans. States that this provision will adversely affect the tax status of thousands of Xerox employees. Feels that any characterization of these plans as employee contributions is factually inaccurate and inconsistent with accepted treatment of deferred compensation under nonqualified plans.

Eastman Kodak Company, Walter A. Fallon, President, Rochester, New York.—Objects to the prohibition of salary reduction plans. Stresses that this provision would affect the tax status of thousands of employees of various corporations while not affecting the tax status of the corporations themselves. Believes that characterizing an employee's option to receive cash in lieu of a contribution as an employee contribution is factually inaccurate and is not consistent with the accepted treatment of deferred compensation under nonqualified plans. Argues that no distinction can be made between union employees who bargain for increased pension benefits as a tradeoff to increase salaries and non-union employees who choose between increased salaries and increased pension contributions.

Robert M. Leventhal, Chairman, Legislative Committee, Council of Engineers and Scientists Organizations.—Commends the inclusion of the joint and survivor annuity option which can be exercised by the employee upon his retirement, but proposes that language be inserted in the bill setting forth the intent of Congress that private retirement plans provide for the family unit. Urges that in the event that a plan participant in active service who is eligible to retire under any early retirement provisions of the plan dies while in active service, it shall be deemed that he opted for the joint and survivor provision thirty days prior to his death, as a protection for his surviving family.

R. Edwin Wood, San Francisco, California.—Urges the adoption of provisions allowing an employee covered by stock bonus plans to acquire ownership of such stock at current market value.

Construction Specialties, Inc., Cranford, New Jersey, Edward C. Hallock, President.—Objects to the provisions of the pension reform bill which would require taxation of that portion of optional cash in a deferred profit sharing plan which an employee did not take in any given year. Reports that of the 250 employees in the company profit sharing plan, less than 7 percent elected to take the cash in recent years. Cautions that the bill's provision will encourage the employees to take the cash in order to meet the requirements to pay the tax.

Converse Murdock, Attorney, Wilmington, Delaware.—Questions whether the expense and delay of requiring that each participant in a qualified deferred compensation plan have an absolute option to take a joint and survivor annuity with his or her spouse as the survivor annuitant can be justified since it will, in effect, require the amendment of hundreds of thousands of existing deferred compensation plans.

Points out that many of the provisions of the proposed legislation have the effect of disallowing certain contributions as deductions. Maintains that requiring pay back of certain previously deducted amounts put into qualified plans may inadvertently topple some corporations into a personal holding company status and produce very inequitable results. Urges an appropriate amendment to the personal holding company provisions of the Code to avoid such inequitable results, and cities precedence for such relief in section 545 of the Code.

Coalition of American Public Employees, Washington, D.C., Ralph J. Flynn, Executive Director.—Urges the committee to include authorization for a broad congressional study of public employee pension plans similar to that in H.R. 2.

Urges the amendment of section 706(j)(1) of H.R. 4200 by eliminating the words "if it is designated as an employee contribution", because it is believed that the inclusion of that phrase has the effect of foreclosing the arguments being vigorously pressed in several pending lawsuits on behalf of public employees for the deferral of income tax on amounts paid into government pension programs.

Airline Pilots Association International, Washington, D.C.—Submits language for a recommended amendment which would extend to a "bargaining unit" relief comparable to that proposed for a "salary unit".

Martin E. Segal Company, New York, N.Y.—Argues against the 50-percent joint and survivor annuity form. Believes this should be an option of the employee to be affirmatively chosen and not one that must be renounced within two years of first payment. Believes the survivor option will impose a substantial additional cost on pension plans.

Advocates modifying the prohibition against nonqualifying pension plans to allow certain limited types of nonqualified pay-as-you-go arrangement, such as the case where a company supplements payments to existing pensioners and survivors by making supplementary payments on a pay-as-you-go basis.

Arthur I. Grossman, Attorney, Chicago, Illinois.—Indicates that section 706(j) of the bill leaves in limbo the question of whether so-called "cash option" plans would be treated as salary reduction plans. Feels that the statute should clearly so state if it is intended that cash option plans not be so treated.

Eugene M. Kinney, Senior Vice President, Zenith Radio Corporation, Chicago, Illinois.—Objects strongly to section 706(j) of H.R. 4200 which would tax the portion of profit sharing funds contributed by the company to the trust which the employee chooses to have retained in the trust, merely because at the time of the contribution the employee has the limited right to take such portion in cash from the company. Believes that this provision imposes an intolerable and unfair tax burden on the workers who choose to retain their portion of the profit sharing funds in the profit sharing trust.

National Senior Citizens Law Center, Los Angeles, California.—Believes that the provisions for arbitration procedures should apply not only to pension benefit plans but also to participants in and beneficiaries of profit sharing plans.

Arthur L. Fox II, Attorney, Washington, D.C.—Contends that the arbitration provisions of section 691 of H.R. 4200 are totally inadequate to protect the interests of beneficiaries of pension and profit sharing plans. Criticizes the provision in section 691(c) of the bill which would allow unions and employers to agree upon "alternate procedures" (other than impartial arbitration) for a settlement of pension disputes. Points out that where the union is also acting in an administrative or trusteeship capacity, its interests are in conflict with the members who are beneficiaries. Feels that this problem is intensified by section 691(d) which provides that the case law which has been developed under section 301 of the Labor Management Relations Act shall govern the resolution of such disputes and by Supreme Court decisions which hold that union-employer joint committee decisions are entitled to judicial enforcement just as if they were impartial arbitration awards. Urges the deletion of subsection 691(c) from H.R. 4200. Calls attention to the fact that the bill is completely silent as to the method of selection of arbitrators. Maintains that more detailed procedures governing the selection of arbitrators and permitting the aggrieved beneficiary to participate meaningfully in the process must be developed and included in the bill.

Lincoln First National Bank of Rochester, Rochester, New York. Alexander D. Hargrave, President.—Asks that section 706(j) of H.R. 4200 be amended to limit its scope so that it clearly does not apply to qualified profit sharing plans in which the employee may elect either to receive cash or to defer the benefits to the profit sharing plan.

Mario Leo, Vice President, Research, Towers, Perrin, Forster & Crosby, Inc., Philadelphia, Pennsylvania.—States that the bill's mandate that the normal payment form should be a 50-percent joint and survivor's benefit is extremely presumptuous. Cannot understand why anyone should be compelled to receive their pension in this specific pension form.

Marvin Schwartz and Burton M. Epstein, Attorneys, New York, N.Y.—State that under present bankruptcy law employer contributions to pension funds are not deemed to be entitled to priority because the courts declare that these contributions are not "wages due to workmen". Argue that provisions should be included in the bill making pension assets "wages due to workmen" for purposes of the bankruptcy act.

Robert D. Crane, Washington, D.C.—Recommends H.R. 8590 as a constructive supplement to the pension reform legislation because it will strengthen employee stock ownership plans.

Wayne D. Hudson, San Francisco, Calif.—Asks that the prohibitive transaction section of H.R. 4200 be made to contain an exception for the purchase of employer securities by stock bonus plans and for the guarantee by the employer of loans to stock bonus plans for the purchase of employer securities.

Raymond A. Ehrle, Teledyne Economic Development Co., Washington, D.C.—Urges the addition of H.R. 8590 to the pension reform bill to insure the right of workers to become owners of capital through employee stock ownership plans.

R. P. Holman, Chattanooga, Tennessee.—Recommends that the pension reform legislation apply to workers in Federal agencies such as the TVA which have fallen far behind Civil Service in such matters as vesting rights, portability, reinsurance, and fiduciary standards.